

99 OBSERVATIONS

ON THE

JUSTIFICATIVE MEMORIAL

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OF THE

COURT OF LONDON.

PARIS, PRINTED BY THE ROYAL AUTHORITY.

PHILADELPHIA,

PRINTED BY F. BAILEY, IN MARKET-STREET.

M.DCC.LXXXI

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THE Court of London has just published, under the title of *Justificative Memorial*, a ministerial reply to the explication of the motives of the conduct of the King, with regard to England: If facts, imagined or perverted,

verted, if principles false or ill applied, if sophisms and injuries are sufficient grounds to justify the proceedings and the accusations of Great-Britain, it must be granted that the British ministry have perfectly well fulfilled their task: But the impartial judges to which they have appealed, persuaded that the King regards his honour, his reputation, and his glory, will, without doubt, have suspended their judgment, until his Majesty shall either have avowed or overthrown the charges which they have so liberally made against him.

The King, certainly, might have devoted to silence and oblivion, all the errors and invectives which make the basis of the defence of the King of England; and it is with the most extreme reluctance that he sees himself under the necessity of calling these to mind: Nevertheless, his Majesty believes, that he owes it to himself to annihilate them, in re-establishing the truth of facts, and in explaining the principles and views which have directed all his steps. But the King will be careful to avoid taking for his model, the stile and the tone of the court of London: As he will speak only the language

guage of justice and reason, his expressions will be as simple as his sentiments are moderate, and he flatters himself, that the force alone of the truths which he is about to explain, will irrevocably fix the opinion of all the powers.

According to the publication of the Court of London, the King *has forgotten the faith of treaties, the duty of an ally, and the rights of Sovereigns, to apply himself only to take advantage of circumstances, which appeared favourable to his ambitious projects; he HAS DEGRADED HIS DIGNITY, in framing secret connections with the Americans, and after having exhausted all the INFAMOUS resources of PERPIDY and DISSIMULATION, he has dared to avow the solemn treaty, which his ministers have signed with the obscure agents of the British colonies.*----

Such are the principal accusations which the Court of London forms against that of Versailles. To put it in the power of the public to judge, with knowledge, of the case, it is necessary to enter into a detail of the conduct of the King, to draw a parallel between it and that of the Court of London,

to devolve the principles which have directed both : In fine, to overthrow the facts invented by the British minister, to re-establish those which he has perverted, to relate those which he has thought proper to omit : In a word, to bring to light a cause which interests all nations, and which the court of London has distorted in the most extraordinary manner.

All the powers of Europe must agree, that the King has, to the present moment, been faithful to the pacific assurances which he has not ceased to give them ; and the King of England, more than any other sovereign, could give him this testimony, because he has particular proofs of the sincerity of the wishes of his Majesty, to preserve the general peace, and he ought to recollect the re-iterated steps which he has taken to consolidate the harmony which subsisted between the Courts of Versailles and London. But this Prince, or rather his ministers, who have their faults to conceal, have believed that it would better suit their views, their personal interest, perhaps their safety, to sacrifice truth, and their own opinion, to the necessity of representing

representing all the steps of the King as so many proofs of perfidy, in accusing him of having fomented, supported, completed the revolution of America, in reproaching him with having taken advantage of the circumstances that this very revolution offered him, to execute the ambitious projects which they pretend he has in view.

That all the nations, to whom the King appeals, as well as the Court of London, may have it in their power to form a proper judgment of the list of these pretended offences, we will faithfully explain the principles, which have directed the conduct of the King. We will make it to be understood, with the most scrupulous exactness, in what manner, at what period, in what conjuncture, and with what views, his Majesty has formed an alliance with the United States of North-America.

All the world knows, that the Americans had already formed an opposition to the attempts of the mother country, when the King took the reins of government; and all the world foresaw, from that time, either that the Americans would shake off
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the British domination, or that they would yield only to the superiority of forces which might be employed to subdue them.

This reflection could not escape the sagacity of the King, and it presented him with infallible means to obtain, at length, satisfaction for all those acts of injustice with which he had to reproach England : But his Majesty did not suffer himself to be dazzled with a prospect so engaging. He remained a tranquil spectator of the quarrel of Great Britain with her Colonies ; and the distance he preserved from all that which could make him be suspected of taking part in it, hindered him even from having the least connection with the Americans. Nevertheless, the King without putting himself in the condition to be justly accused of sacrificing all to his ambition, to his injustice, to his perfidy, might have taken some notice of what are called *Reasons of state*. Touched with the advantages which the approaching independence of America seemed to present, he might have thought that it was not only his interest, but his duty, to favour that country. Taught by the example which England had given,

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in circumstances less favourable than those of the then Colonies, he would have believed himself justifiable to imitate her conduct; convinced by a long train of facts, that the British policy has no other basis, than personal interest, the most exclusive conveniency, an envious and tyrannical ambition, he might have believed himself obliged to render her inoffensive, by diminishing the means of exerting these principles. If his Majesty had effectively followed this step, which has been just traced out, is there an enlightened and unprejudiced judge who would have dared to condemn him, and to proclaim him to posterity as an unjust and perverse sovereign, as the enemy of the human race?

In the mean time the revolution made the most rapid progress. The spirit which conducted it, spread itself in all the British colonies; it excited them to run to arms on all sides, and the troops which the court of London sent to extinguish it, met with a resistance which they were not able to surmount. This state of things could not but augment the courage of the Americans, in shewing them that they might take confidence in their own strength.

While, nevertheless, they had arms in their hands, and kept the British, so to speak, shut up in Boston, they made a last effort to bring their grievances before the King and Parliament of England: They demanded redress in a manner which no faithful subject would disavow, and which even, we may venture to affirm, is far distant from the tone with which the British have been accustomed to demand justice of their sovereign. It would be, without doubt, superfluous to recall to the memory of the Court of London, the manner with which she received the remonstrances of the Americans.

At this juncture, as important as delicate, the conduct of the British ministry destroyed the little hope the Colonies had entertained until this time, of a just and durable reconciliation; and it presented them with the cruel alternative, either of submitting as guilty of high treason, or supporting their privileges and their liberty at the expence of their fortunes and their blood. It was easy to foresee, that they would determine on this last part; and this extreme resolution, which the British constitution authorised, and which the ministry of London had rendered

rendered necessary, knit closely the knots which had already united the different Colonies, and produced the famous act of association, by which the Thirteen Colonies, which compose, at this day, the United States, mingled their interests, and leagued themselves against Great Britain, which they no longer regarded, but as their oppressor.

This act was soon followed by another infinitely more important, that is to say, that by which the Americans declared themselves Independent of that power. There is no one who does not recollect that the patriotic party in England had continually announced this event; for they considered it as an infallible consequence of the anti-constitutional measures, which the Council of St. James were obstinate to put in execution. France had not any part in the ever memorable step of the Americans; the King, at the period in which it took place, had no connection, direct or indirect with them; his Majesty, did not even employ an emissary in America; he had no knowledge of the declaration of Independence but by the voice of England, and, after-

wards

wards, through the channel of the *Sieur Deane*, who had just arrived in France.

The sojourn of this American in the kingdom, introduced a new course of affairs; for, it was at this period that the court of London began to develope her principles, and her pretended causes of complaint. She took umbrage at the presence of the *Sieur Deane*, even before she had an equivocal step to allege; not only did she persuade himself that this American was charged with a secret commission, but, deceived by her own principles, she suspected, in like manner, that the King had listened to his propositions: It is this, without doubt, that she means to say, when she accuses his Majesty of not having been ashamed to *degrade his dignity in forming secret connections with rebellious subjects.*

It is certain that the *Sieur Deane* was charged with two commissions; one to establish commercial connections between the subjects of the King and the Americans; the other, to propose to the King, not only a treaty of commerce, but also an alliance, conceived in the most extensive terms.

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The King could, assuredly, without degrading his dignity, without violating treaties, without injuring the rights of sovereigns, listen to the overtures of the American Agents; his Majesty listened to them in reality; but he gave the Sieur Deane to understand that his intention was not to form political connections with the Colonies; he refused not only to receive the plan of the treaty which this American presented to him, but also to acknowledge the quality of Commissioner, which the Congress had given him; and he limited himself to give to the Sieur Deane, as an individual, the same retreat, and the same protection which all strangers enjoy, who reside in the kingdom. This conduct might displease the Court of London, but she had so much the less right to censure it, as she has actually still in her kingdom, one whom, according to her own principles, she must account a chief of rebels, in her pay. Nevertheless, the British ministry considered it as an infraction of treaties, and their irritated pride blinded them so much that they ordered the Viscount Stormont to demand the Sieur Deane, as a rebellious subject, or at least to insist on his expulsion from the dominions of his Majesty: The

public will form a judgment of a step so inconsiderate; and the King has, without doubt, no need to justify the refusal which his answer contained.

The ambassador of England, chagrined by the determination of the King, which, nevertheless, he must have expected, gave, without doubt, the complexion of his bad humour to the information which he communicated to his court: It is at least certain, that he gave it to his conduct; for he established in all the ports of the kingdom, an indecent, scandalous, and unexampled prying into all affairs. Every vessel which was equipped, cloths and warlike stores purchased, all, according to his emissaries, were on account of the Americans. The perpetual complaints, which were the consequence of these informations, were examined with as much celerity as exactness; they were found, almost always, destitute of foundation, and the very small number of which any proof was given, was followed with a prompt reparation.

This is the place to explain the nature of the complaints, and the demands of the Court of London.

don. This Court opened the scene by demanding that the King should prohibit his subjects all kind of connection and commerce with the Americans; that he should prohibit them, especially to sell to these arms and warlike stores; that he would punish them in case of transgressing this prohibition; that he would prevent the American privateers from selling their prizes, and even that he would treat them as pirates, in forbidding them an entrance in his ports.

The King desired so much to maintain a good understanding with the Court of London, and he was so far at that time, from treating with the Americans, that he admitted the greater part of the demands which have just now been mentioned: His Majesty prohibited, very severely, the exportation of arms and of warlike stores, provided they were intended for North America; he prohibited the American privateers to sell their prizes in France; and his subjects to purchase them; and he did not permit these privateers to remain in the ports of his kingdom, but the time prescribed by the treaty of Utrecht, and under the express conditions laid down in this treaty. Nothing can better prove the exact-

ness with which these orders of the King were executed, than the repeated representations of the Deputies of the Congress, and the discontent which was carried to America, amongst others, by the Sieurs Hodge, Cunningham and Wickes (a).

But

(a) The Sieur Cunningham, Captain of an American armed vessel, after having wasted the British commerce, entered the port of Dunkirk. He there disarmed his vessel, and declared that he was about to load with merchandise, for one of the ports of Norway. As this declaration appeared suspicious, security was demanded of Cunningham; he presented two, the Sieurs Hodge and Allen, both British. Cunningham sailed in reality from the port of Dunkirk without being armed; but clandestinely, and in the night, he caused seamen, guns, and warlike stores to be put on board his vessel, which was in the road: He set sail, and in a short time, made prize of a British packet-boat, the Prince of Orange. As soon as the French government was made acquainted with the fraud of Cunningham, they caused the Sieur Hodge, one of his securities, to be arrested and conducted to the Bastille; and the packet-boat was restored to the Court of London, without further trial, because the offence of Cunningham was evident and public.

With regard to the Sieur Wickes, Captain of an American armed vessel, he had made two considerable prizes; but before he carried them into the port of Nantes, he had opened the hatches, either to examine the merchandise, or to make sale of

But while the Court of London heaped complaints upon complaints, and the King was earnest to satisfy her, not only by acts of justice, but also by acts of complaisance, of which he had laid down to himself a system of carrying to the highest degree, the British Captains conducted themselves in a manner the most violent and arbitrary, towards the French vessels; instead of following, with respect to them, the forms prescribed by the treaties, they obliged them to bring to, at the discharge of a gun loaded with a bullet (b); and

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of them clandestinely. As this proceeding was contrary to the text of treaties and ordinances, the two vessels in question were confiscated to the King's benefit; but his Majesty caused them to be restored to the British proprietors.

(b) When vessels of war meet, on the high seas, vessels which appear to them suspicious, custom authorises them to give them warning, and to oblige them to bring to: They discharge, for this purpose, a gun loaded with powder; and disobedience alone, if it is presumed voluntary, will justify them in loading with a bullet. Such is the practice of all nations: But the British officers accustomed to an arbitrary conduct, and above all to impunity, transgress daily this rule; and a conduct so intolerable excited complaints so much the more frequent, as it produced almost always excesses and disasters. But the British mi-

nistry

with armed force (c) they caused the Captains to come on board, far from finding those complaints just, and paying attention to them, approved, on the contrary, the conduct of the British officers, in maintaining, contrary to notoriety, that the custom of discharging with a bullet was received, and even innocent. It is left to all commercial nations to form a judgment of such jurisprudence.

(d) To form a proper judgment of this grievance it is requisite to call to mind the 24th article of the treaty of Utrecht; the purport of it is as follows: "In case the ships of the subjects and inhabitants of both their most serene royal Majesties, either on the sea coast, or on the high seas, shall meet with the men of war of the other, or with privateers, the said men of war and privateers, for preventing any inconvenience, are to remain out of cannon shot, and to send a boat to the merchant ship, which has been met with, and shall enter her with two or three men only, to whom the master or commander of such ship or vessel shall shew his passports, concerning the property thereof, made out according to the form annexed to this present treaty; and the ship which shall exhibit one, shall have free passage, and it shall be wholly unlawful any way to molest her, search, or compel her to quit her intended course."

It is according to these regulations, that we ought to judge of the following facts.

1. The Sieur Ango, Captain of the brigantine the Renommée,

come on board, and not satisfied with the regularity of

was met September 4th 1777, by a British letter of marque. This last sent on board the French vessel her Surgeon and ten men, all armed with muskets, pistols, and cutlasses, caused the crew to be seized, and the Captain to be carried off, during the absence of whom the French crew experienced the most severe injuries. They pulled down the partition of the cabin, broke the Captain's chests, his boxes, his desks; they overturned every thing, and several articles were carried off. All these outrages were continued during the space of four hours; after which Captain Ango recovered his liberty. This grievance was laid before the Court of London, November 7.

2. July 13, 1777. The Sieur Tercenier, commander of the vessel, the Marie of Dieppe, in the mouth of the cape, fell in with a British vessel of thirty or forty men. After having sustained a continual fire of musketry, she was boarded. Fourteen or fifteen men, armed with cutlasses and pistols, boarded the French vessel, and obliged the crew, by blows with the flat sides of their cutlasses, to retire below. A British officer, took the command of the Marie, and made use of her for the space of two hour, to give chase to a French schooner, which he obliged to run down to a British frigate, at the distance of four leagues to windward, by which it was searched, and not set at liberty, but at the end of six hours.

3. The Sieur Chandeau, Captain of the ship Philip, August 23, 1777, fell in with a British sloop, which carried guns; hoisted

of the naval papers, as prescribed by the treaties,
they

ed, at first a French flag, and in a moment after, having hoisted the British flag, which she confirmed by a cannon shot, discharged immediately three guns with bullets, which were followed with six others, which struck the rigging: they called out to the French vessel to come on board the sloop, while this last continued to fire from time to time, cannon shot with bullets. The French boat was sent to the British vessel, with four men, the master, and an officer; but these six men were immediately sent to the hold. The French boat returned with a British crew armed, who commanded Captain Chandean to go on board the sloop, or otherwise they would sink him. While the Captain was on board the British vessel, the commander of this last sent to pillage the Phillippe: they carried off firelocks, swords, papers, guns, provisions, sugar, coffee, gold and silver, also the effects found in the trunks of the Sieur Chandean, amounting to the value of five thousand five hundred and sixty-five livres*. The Captain was afterwards sent on board; but before this, the British Captain had robbed him of his watch. On his return to his vessel, the Sieur Chandean found the British nailing up the three guns which remained.

4. The Sieur Maffie, Captain of a vessel, the Bon Pasteur, coming from Martinico, Dec. 21. 1777, off Cape de Gate, fell in with a British frigate, the Westmoreland. This frigate, after having fired a cannon shot with a bullet, came up to the Bon Pasteur,

* £ 287 : 4 : 9 Sterling.

they searched, they overturned, and pillaged the cargoes (c). There sailed scarcely one vessel from the islands, had the British frigates the Bon Pasteur, sent to her in the boat six men armed, each with two pair of pistols and a cutlass. Entering on board, they put a pistol to the throat of him at the helm, took possession of the helm, and the command of the ship, and obliged the Captain to go on board the boat, ordering him to carry with him all his papers. The Commander of the British frigate having received the papers from the Sieur Maffie, instead of examining them put them into his desk, telling the French Captain, that he was persuaded he had not come from Martinico, but from New-England, that his lading was certainly tobacco, rice, wheat, &c. and that he was about to carry him to Mahon, to make an exact search of his vessel. It is to be remarked, that the Baron D'Arbaud of Jouque, Major General of Martinico, was on board the Bon Pasteur, as a passenger. This officer was ordered on board the frigate; they obliged him to undergo an examination; and they offered him the half of the cargo, if he would declare, that the vessel was loaded with merchandises from New-England. Finally, the British officer determined to dismiss the Baron D'Arbaud and Captain Maffie; but this last, on his return on board, found every thing in the greatest disorder. This affair, laid before the British ministry, was remitted to the admiralty.

(c) See the preceding note :--- To the facts which it contains we may add farther, the depredations and the pillaging experienced, 1. By the Sieur Laine, Captain of the ship Victor.

2. The

the French islands, which was not obliged to submit to this despotic inquisition. A multitude of decisions given in the British islands, had adjudged prizes to the British captors, the illegality of which was evident (e); the Vice-Admiralties of these

21. The Sieur Falconard, Captain of the ship Cesar. 22. The Sieur Vincent, Captain of the ship L'Esperance. 23. The Sieur Budinet, Captain of the ship L'Incognito. 24. Add to these; twenty-three declarations of Captains pillaged, and unhurt.

(e) 1. The ship Providence, Captain Poiterin, sailing from the Cape, August 16, 1777, was taken the day after, and adjudged lawful prize at Jamaica, under the pretext that a quantity of wine found on board was intended for the Americans.

2. The ship Trader, equipped from St. Domingo, for Martinico, was taken in the latitude of Jean Babel, on the coast of St. Domingo, and carried to Jamaica, where she has been adjudged to confiscation.

3. The boat, the Possilon was taken a league from St. Domingo, and her cargo was sold.

4. The ship Joli-Cœur, laden for St. Domingo, carried to New-York.

5. The ship Pompee, taken in the latitude of Finisterre, and carried into Gibraltar.

6. The

these islands had gone so far as to declare lawful prize, vessels which were loaded with commodities purchased in the French islands, because these same commodities were presumed to be the production of North-America (f); and others brought to, on the sea had unexceptionable merchandises, but which might suit the Americans (g). The British privateers had violated the domain of the King in Europe (h), and in America (i); a great number of

6. The schooner *Esperance*, from St. Peter for Martinico, carried to New-York.

7. Twenty other vessels taken and confiscated on a simple suspicion.

(f) The ship *L'Aimable Reine*, laden with tobacco and indigo.

(g) These vessels were above twenty in number: None of them were laden with arms or with warlike stores; all were bound for the French American islands.

(h) A British privateer, which had hoisted an American flag, took, towards the end of the month of August, 1777, eighteen American vessels in the river of Bordeaux. In laying this violation of domain before the British ministry, it was observed to them, that an outrage of this kind could not be too speedily repaired; and that in tolerating it, they would set a very bad example

of French vessels had been confiscated, only because their vessels which were loaded with commodities purchased in the French islands, because those commodities were destined to be the property of the French. The British ministers themselves judged that the fact in question merited the most serious attention; nevertheless, the representation of the King's Ambassador was not followed with any reparation.

2. December 1777, a Jersey privateer called the *Revanche*, carried off an American vessel taken near the point of Croisie. This fact was laid before the British ministry, as a manifest violation of the law of nations, and an insult to the sovereignty of the King, and the American vessel was demanded; but the King could obtain satisfaction on neither of these subjects.

(i) In the course of the month of December, 1777, the British frigates the *Maldstone* and *Squirrel* had driven ashore an American vessel in the bay of Jean Babel, in the isle of St. Domingo. They fired with a bullet on a guard-house, and on a habitation of fishermen: Thirty men in a shallop, discharged a continual fire of musketry on the guard-house; they came ashore; they took possession of a battery, the guns of which they dismounted; they advanced on the land in pursuit of the Americans, and they burnt the batteau. The two frigates had carried a French flag, and did not hoist that of their nation, until the moment when the American vessel was on fire.

3. A third British frigate was guilty nearly about the same time of a violation of domain, in pursuing, on the coasts of Guadeloupe, an American vessel, and in landing her men to pursue the crew which had quitted the vessel.

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their cargoes might suit the Americans (2); and there
 (These facts and many others almost of the same nature, were
 to no purpose laid before the British ministry.

3. A French vessel named the *Amitié*, loaded at St. Pierre
 with cod-fish, salmon, and several other unexceptionable mer-
 chandises; intended for St. Lucia, was pursued as far as the
 bay of this island, by a British frigate, who discharged twelve
 shot at the half distance of gun shot of the cannon on the
 land, without having shewed her colours, and what nation she
 was of. The French vessel being, April 5, 1777. in the road of
 the bay, the British commander sent two tenders to carry her
 off, which the hands of the tenders effected by cutting her
 cables; they fired several musket shot on a sloop of the King,
 which had come, though too late, to the assistance of the vessel.
 This fact was laid before the British ministry; Lord Weymouth
 was convinced that it demanded a striking reparation, but it
 has never yet taken place; they contented themselves to restore
 the vessel.

Captain Keclar commanding the frigate *Lynx*, carried off two
 vessels of his nation which were at anchor in the road of St.
 Pierre, in Martinico, June 28, 1776. The punishment of this
 officer was demanded; the British ministry promised to con-
 sider his offence: They were put in mind of it; they made new
 promises: Nevertheless, there has been nothing more heard of
 a reparation.

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did not exist any way of appeal, to procure a redress of the iniquitous decisions of the Vice Admiralties: They promised without end, but always without effect, the establishment of a Commission (f). This is what the author of the *Justificative Memorial* calls general and equivocal accusations, the studied obscurity of which bears the character of shame and artifice; this is that which he calls vague and obscure complaints; these are the phantoms which the author of the *Memorial of the British Court* has thought himself obliged to combat.

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The British vessels, in their station in the West-Indies, established their cruising, even opposite our roads; they came daily under our forts, without hoisting their flag; they chased the American vessels under the very guns of the batteries; and they fired on our own vessels to oblige them to come to. The representation of these facts was followed with the most positive promises of the punishment of the officers in fault; but there is reason to believe that they have not even reprimanded them; for they did not alter their conduct until the vessels of the King had obliged them to keep at a distance.

(f) See note (g).

(1) No commission to receive appeals was established at the period when the Marquis de Noailles withdrew from the Court of London.

The King ought naturally to suppose, that his exactness to do justice on the complaints of the court of London when they were ascertained, would lead her to follow his example; and we are, without doubt, tempted to believe, that his Majesty had nothing to desire in this respect, after the assurance given in the *Justificative Memorial*, "That it would be easy to give satisfactory answers; or rather to repeat those which have been already given, and to demonstrate thereby to the eyes of France herself, the moderation of the King of England, his love of justice, and the sincerity of his disposition to maintain the general tranquillity of Europe." But this Court, instead of observing the conduct, the merit of which she dares to assume, a conduct which justice prescribed to her, and which we may affirm, conjunctures seemed to suggest to her prudence, this Court contented herself with vague and fruitless assurances of her good will, and instead of ordering the reparations which the King had a right to expect, the British ministry uniformly referred to the Admiralty, there to be buried and forgotten, all the representations made by the Ambassador of his Majesty. What is astonishing is, that at the very time

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the Court of London paid so little regard to the just demands of the King, she charged her Ambassador at the Court of France, to make new remonstrances against the favours pretended to be granted to the Americans. According to him the three privateers of that nation, the Reprisal, the Lexington, and the Dolphin, had carried into the ports of France vessels taken on the coasts of England, had returned to sea after having repaired their damages, had re-entered the ports of France with new prizes, had been allowed publicly to make sale of them; other privateers had received permission to arm in the ports of the Kingdom. In one word, Lord Stormont renewed all the complaints which had already been made to the Ministry of the King, although he had received on all of them answers which ought not to have left his zeal any thing farther to desire. It is in speaking of these facts, all of them either false or exaggerated, that the British ministers affirm, *that the Agents of the Colonies, encouraged by the Ministry of France, had formed and executed the audacious project of establishing a place of arms in the Kingdom; that their associates had equipped vessels which they had armed, to cruise even on the coasts of*
Great-

Great-Britain, that its boats appeared. The Captains hoisted the pretended American flag, although the crews always consisted of a large number of Frenchmen, who embarked with impunity, under the very eyes of the Governors and other officers of the maritime provinces, who now conducted themselves with no other intention, but to conform to the views of the ministry.

According to the English Memorial, Lord Stormont, in executing the orders just mentioned, so far forgot the regard and respect due to the King, as to summon him to an explanation of his conduct and his intentions, without delay and without subterfuge; and to propose to him in the name of his master, the alternative of peace or war. Lord Stormont, it is true expressed himself with a warmth, or rather an excess of passion, little becoming the place in which he spoke; but the Count de Vergennes interrupted him, by observing coolly, that if what he had just said was the object of his commission,

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 The proposition of the Secretary of Foreign Affairs, in the King's name, to the French Minister, was not only received, but also answered, in a manner which did not entirely perceive, that they were not to be treated as equals.

and his Court had ordered him to make a declaration of war, he should immediately go and report it to the King; adding, at the same time, that he, Lord Stormont, was too well acquainted with the rights and dignity of sovereigns not to conceive what his Majesty's answer would be. By this language, pronounced with equal moderation and firmness, Lord Stormont was brought to himself; and struck with the friendly lesson he had just received, he entreated the Count de Vergennes in the most pressing manner, to regard every thing he had advanced as if it had not happened, and resumed with a tone suited to his character, and that of the King's minister, the business which was the object of his mission. This scene took place on the 8th of July 1777. It is with regret that it is here related, but the dignity of the King requires it no less than truth.

For the rest, it is difficult to conceive from what motive and with what view the British ministry have thought fit to use the arrogant language which they put into the mouth of Lord Stormont; they did not surely perceive, that they thereby destroyed

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their posthumous display they had just made of the mortification of the King of Great Britain, of his extreme love of peace, and of his anxious desire to preserve it: They did not perceive, above all, that they forgot, or rather that they committed an outrage on the dignity of their own sovereign, by leading the public into a belief, that a great power may be deceived and provoked with impunity.

Whatever may have been the intention of the British ministers in supposing that Lord Stormont had made a declaration of war against France, the King, to whom an account was given of the representations of the Court of London, without making mention of the proposition advanced by Lord Stormont, directed the following answer to be given to the English Ambassador: "That his Majesty, faithful to the observance of treaties, will permit nothing that might derogate from them; and that sensible to the complaints brought against the irregular conduct of the three American privateers, the *Reprisal*, the *Lexington*, and the *Dolphin*, he will express his dissatisfaction, by ordering such of these privateers as shall be found

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"in the ports of the kingdom, to his satisfaction, in
 "order to be retained until sufficient security shall
 "be given for their returning directly to America,
 "without giving further disturbance to the Europe-
 "an seas: that orders have been received, not on-
 "ly for prohibiting the sale of prizes which the
 "said privateers or others may have carried in, nor
 "shall hereafter carry in, but also for obliging
 "them to depart as soon as the winds and the cir-
 "cumstances of the weather shall permit: that the
 "same order extends to every captor indiscrimi-
 "nately, and that the officers appointed for that
 "purpose are enjoined to enforce it with the utmost
 "rigour, on pain of answering for it in their own
 "names: that they are likewise enjoined to take
 "especial care that the facilities allowed to the trade
 "of the Americans, do not exceed those incident to
 "lawful commerce: that if any British subject thinks
 "he hath just ground of a personal action against
 "either of the aforesaid privateers, the courts of
 "justice are open to him, law, and not authority
 "deciding private controversies in France, as well as
 "in England." This answer was accompanied with
 "some remarks on the multiplied complaints which
 had

had been fruitless; and to the Court of London;
 they imported that the readiness of his Majesty to
 redress the grievances of that Court, gave him rea-
 son to think, that the King of England will, on
 his part, pay the same attention to remove all sub-
 jects of complaint, and give orders to put a stop
 to the vexations, to which the commerce of his
 Majesty's subjects are frequently exposed; that
 his Majesty does not intend either to encourage or
 to protect them in a trade prohibited by treaties;
 but that he could not consent, that under
 colour of spurious distinctions, vessels and car-
 goods should be taken and confiscated, their crews
 be maltreated and imprisoned, under pretence that
 there were foul play on board, goods and merchan-
 dises, that were brought in off the growth of
 North America, that a jurisprudence of this ad-
 vantage can be reconciled neither with justice, nor
 with the friendly assurances of the Court of
 London; that it was not intended for a country, in
 which the King did not confine himself to make
 known to the Court of Britain, by means of Lord
 Stormont, his ideas on this subject, but likewise
 ordered

ordered the Marquis de Noailles to deliver the memorial containing these to the British ministry, and at the same time to make some observations on the principles by which the two Courts ought to direct their conduct: There is one of these which ought especially to be mentioned, as it proves the sincerity with which the King believed he ought to explain himself to the Court of London; and as it will shew what weight ought to be laid on the reproach of *diffimulation* and *artifice*, which the British writer casts on his Majesty's ministers: The King of England pretends, that to prevent the loading of arms, the King ought to prohibit to his subjects indefinitely, the exportation of them, and order those to be punished who should give false destinations. To a pretension so inconceivable, his Majesty's ambassador was ordered to answer, "That warlike stores are as much a part of lawful commerce as any other merchandise, when they are not intended for a country at war with another; and that it is only with respect to nations at war, that they can be considered as contraband; that at all times it has been permitted to export them to our Colonies, to Africa, and wherever com-

Lombro " merce

"commerce could be carried on; that under any farther
 "restraint, your manufactories of arms would soon
 "be without employment, and without artificers;
 "that with regard to false destinations; it is impos-
 "sible to prevent them; that the British contra-
 "band traders, who sail along the Spanish coasts in
 "America to distribute their contraband goods, ne-
 "ver insert in their clearances the true destination of
 "their cargoes; that none of these contraband tra-
 "ders had ever been punished by the British Admi-
 "nistrators for having given in false destinations; and
 "that it had appeared with a very bad grace to ex-
 "pose, as a grievance, a practice which is tol-
 "lerated and even encouraged at London (iv.)"

The conversation of the Marquis de Noailles with
 Lord Weymouth was terminated by the communi-

cation of the Marquis de Noailles to the Marquis de
 (v) These observations shew the injustice as well as the inde-
 cency of the violent declamations contained in the British pub-
 lication, with regard to the vessels fitted out by the Sieur Beau-
 marchais and other individuals. It is possible that the true des-
 tination of these vessels may have been disguised by false decla-
 rations: But Lord Stormont has not adduced the least proof;
 and certainly it was not the business of the French government
 to adduce it for him.

ration of a note, setting forth our own grievances.
 This minister made no objection to any of the ob-
 servations of the Marquis Noailles; on the contrary,
 he renewed the assurances of his desire to concert in
 maintaining a good understanding between the two
 Courts. There is certainly no one but must do jus-
 tice to the candour with which the King has on this
 occasion declared his principles to the Court of
 London. There is, likewise, no one but must agree,
 that his Majesty has gone beyond his obligations in
 prohibiting his subjects to trade in arms and warlike
 stores with the Americans. It was reserved for the
 British ministry to think otherwise. According to
 them, the King ought to have ruined his manufac-
 tories of arms, and a part of his subjects, by forbid-
 ding, without reserve, a lawful commerce; he
 ought, without cause, to have offended the Ameri-
 cans, by driving them from his ports, that they
 might fall into the hands of the British; and, if we
 are to believe the *Justificative Memorial*, the King
 ought not only to have been answerable for the con-
 duct of his subjects, but he was also under a strict
 obligation to take arms to recover America, to
 the obedience of the mother-country.

There

There is, without doubt, no Sovereign, who could be so weak as to comply with such demands; and it is impossible to find out the principles which could represent them as tolerable, in the eyes even of the British Ministry, if it was not proved in an authentic manner, that in leading the King from one compliance to another, the essential object of the Court of London, was to render his Majesty suspected to the Americans, to make them believe he deceived them, and sacrificed them to his own interest; and at last to bring things insensibly to this point, that the United States convinced that they had nothing to expect from France, and having, on the contrary, every thing to fear from her, had no farther appearance to preserve with the King, and that they had no longer any hope of safety but in the kindness of Great Britain. It was to accomplish the object of this insidious policy, that, on one hand, the Court of London was careful to insert in the public papers of New York, exaggerating with as much affectation as noise, all the compliances of his Majesty; and that, on the other hand, Lord Stormont charged his emissaries to search in all the ports of the kingdom, in all the magazines, and in

all the counting-houses; and that he ventured new complaints upon the slightest suspicions. In the declaration of this Minister, there is found an enormous list of vessels loaded clandestinely in almost all the ports of the kingdom, and, if we believe him, he knew, with an incredible exactness, the names of the owners, the captains, the number of packages, the kind of goods, their true destination, their pretended one, the time of their departure, the armaments which the Americans prepared in the ports of France, the sales which they made publicly of their prizes. (n) In fine, Lord Stormont carried his

(n) The Reader, without doubt, will not be troubled to find here an abstract of the principal complaints of Lord Stormont. He will there find proofs of the indefatigable vigilance of that Ambassador, and above all, the faithfulness of his spies.

1. Jan. 2, 1776. Lord Stormont informed the King's ministers, that there was at Dunkirk an American vessel called the Charming Peggy, Captain Cunningham, which, according to an appearance, was destined to carry powder to America. The Commissary manager of the marine, ordered to search into this matter, reported, That the vessel in question came from Londonderry, that she was preparing to load with brandy for England; that on suspicion that she had taken on board, in the night,

pretensions so far as even to demand that the King should

some barrels of powder, the Sieur Frazer, the British Commissary, obtained permission that she should be searched, which effectively was done, and that there was nothing found on board, but ballast and provisions, after having sounded with iron rods from one end of her to the other.

2. May 20, 1776. According to official information of the Sieur St. Paul, Minister from the Court of London in the absence of Lord Stormont, the British ministry were informed, that there had sailed from Amsterdam, 1. A ship called La Ville de Bourdeaux, bound for Nantes, and laden with four hundred barrels of powder. 2. Two other ships bound for Bordeaux, viz. the Vrow Ester Cornelia, laden with three hundred barrels of powder, and the Concordia, laden with five hundred barrels of powder. All this powder they said was bound for North America. The first of these vessels was actually arrived in the river of Nantes, with three hundred and eighty seven barrels of powder; but this powder had been declared to be for the trade of the French ships to the coast of Guinea; as to the other ships, they have not appeared in the river of Bordeaux.

3. August 16, 1777. According to the information of the Sieur Frazer, who, to the office of British Commissary at Dunkirk, added that of a spy for Lord Stormont, there had been told at this place, a cargo of juniper brandy, taken out of a British prize, the Good Intent, which had been carried into Cherbourg.

should, by his authority, and without examination,
blood order

Cherbourg, there was great search made to discover this brig-
dy; it had in fact come into the port of Dunkirk, in a Jersey
vessel from Holland, and it had already passed, as well whole-
sale as in retail, through more than twenty different hands; so
that it was impossible to prove the identity with that which was
the object of complaint: So that there was no other step to be
taken, than to refer the parties interested to the Admiralty, to
whom it was recommended to examine the affair well, and to
do speedy justice.

August 19, 1777. Severe complaints were made against
the Admiralty at Bordeaux. Four American vessels had arrived
in that port, viz. the Liberty, the Sea-flower, the Betty, and
the Peggy; these vessels, on their arrival, had not a
single gun on board, and were not even pierced; all four were
now completely armed and equipped; the least of the four
mounted eight guns; they were loaded with powder, lead,
ball, &c. the half of their crews were French. Such was the
representation of the British Ambassador; but the following is
the report made by the Admiralty:

Of the four vessels two had left Bordeaux, but one of them
was still at the Isle of Ree, where she was loading with salt, a
commodity useless to a privateer; neither of them had taken in
arms or warlike stores. The officers of the Admiralty went on board the other two,
to

order all the prizes which the Americans should
bring

to make a search; according to their report, the Liberty had
neither powder, guns, nor warlike stores, and but one old mus-
ket on board; on arrival they had eight port holes, the Cap-
tain had added two more. The Sea-flower had arrived with
four English three pounders, and eight swivels, 150 balls, about
two lbs. of powder, and six muskets, and had six port holes. The
Captain had purchased at Bordeaux, four French two pounders,
four barrels of powder, three barrels of small shot, and two
barrels of musket-flints; the crew consisted of ten men, includ-
ing the Captain, all British or American, except one Spaniard.
The ammunition, &c. bought at Bordeaux was seized.

There were new complaints made by Lord Stirling respecting
the ship Liberty before mentioned. This vessel, he asserted,
was completely armed at Bordeaux, the Captain had
bought eight guns, and had embarked many cases and barrels
containing arms and warlike stores. The officers of the Admi-
rality renewed their search, and it appeared that the vessel the
subject of complaint, had sailed many days, that she had been
searched with the greatest strictness, that they had found nei-
ther arms nor warlike stores, that she had only wooden guns,
and not a grain of powder in her magazine.

October 6, 1777. Two American privateers, the Alfred
and the Polly, arrived at L'Orient with two prizes, but they
were not admitted until they had let forth their damages, and
after the Commissioners of the marine had inquired of them, that they

must

bring into the ports of the kingdom, to be given

must hasten their repairs; and put to sea with the first favourable wind: As for their prizes, they were prohibited to enter the port, as long as they had eight port holes.

6. October 15, 1777: Another complaint of the same nature was made respecting the ship Industry: this vessel had arrived armed and provided with warlike stores, and from the examination it appeared impossible for them to take on board any more guns or ammunition.

7. December 4, 1777. Lord Stormont demanded the restitution of a British vessel, called the Anna Sufanna, taken by an American privateer carried first to Nantes, afterwards to Pelerin, where they were endeavouring to disfigure her, after having given her the name of the Mignone. The enquiries made could not ascertain the identity of this lost vessel, to be that which was reclaimed: Lord Stormont was informed of it, and at the same time it was observed to him, that the reclaimers could apply to the common judges in those affairs.

December 25, 1777. The Raleigh, Alfred, and Randolph had been a long time at L'Orient, were loaded with cannon, arms, and ammunition, that had been furnished them in the ports of France; but according to the report made to the ministry, the Raleigh and Alfred had arrived armed at L'Orient, they had landed their guns and ammunition; and had again taken them on board in the harbour: It was this last act which was the cause

Such is the substance of Lord Stormont's
 memorial of the 3^d of November 1777. Had
 the orders which his Majesty had given
 To these tedious and truly troublesome com-
 plaints, which all these pretended grievances had
 determined the British Ambassador to renew,
 the King made answer, that, "If in so great
 an extent of sea coast as that which bounds
 France, he had not been able to prevent some in-
 fractions of the orders which had been given, still
 the expedition with which he had endeavoured to
 remedy it, evinced the sincerity of the assurances
 which had been given, and of the fidelity with
 which his Majesty meant they should be observed;
 that the British Ambassador would find an evi-
 dent proof of this, in the celerity with which he
 had, at the first requisition, dispatched expresses
 to Bordeaux and Nantes, with the orders he had
 desired, in answer, that his Majesty
 expects, in return, that the King of Great-Britain,
 cause of the British Ambassador's complaint. This is the substance
 of the answer which was made to them, January 17, 1778.
 The writer for the Court of London has not dared to re-
 peat this ridiculous pretension, as he well knew the judgment
 that would be given concerning it.

"desired, and in the effectual consequences they had
 "had; that he had been informed beforehand of
 "the orders which his Majesty had given, of his
 "own accord, to the Chambers of Commerce, to
 "the Admiralty, and wherever it was necessary
 "to enjoin the strictest execution of these formerly
 "given, as well to prevent the American privateers
 "finding an asylum and harbour in his ports, more
 "than treaties, and the duties of humanity require-
 "d (p) as to prevent the disguisements and frauds
 "that had been used to cover the prizes they had
 "made, and to prevent the sale. That his Majesty
 "thinks he has taken every measure in this affair
 "that foresight could suggest; if, however, there
 "should be any other more effectual precautions
 "which he has not thought of, he will not refuse
 "his attention to them, as far as they are compatible
 "with his justice, that it is according to this sen-
 "timent

(p) The sanction of the *Supplication Memorial* has dated 20th
 vance, that the King had declared to Lord Stormont that he
 determined to banish from his ports all the American privateers, and
 would not suffer them to return home. The declaration of the
 Court of London abounds with this kind of assertions.

" timent, that his Majesty will not dissemble, that
 " he cannot agree to the insinuation of giving up,
 " without examination, those prizes that may be
 " brought into his ports: He will not permit the
 " sale; it is to this all his orders tend. That the
 " King, although a faithful observer of treaties with
 " England, and jealous to fulfil all the duties of
 " friendship and good neighbourhood towards her,
 " cannot neglect the interests of his subjects, and
 " the security of his commerce; that it would,
 " however, be sacrificing those to capital objects,
 " to take the step aforesaid, as the Americans being
 " no longer able to regard France but as a declared
 " enemy, would disturb the trade of his subjects, in
 " the same manner as they had disturbed that of
 " Great Britain; that the King thinks he has ful-
 " filled with regard to the King of England, all, that
 " justice and his friendship would permit him in
 " those circumstances; in fine, that his Majesty
 " expects, in return, that the King of Great-Britain,
 " on his part, will give the most precise orders,
 " that a remedy may be applied to the different
 " complaints which have been successively brought,

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" some

“ some of which are already of a long date (g), and

“ to

(g) 1. The Governor of Chandernagore had drawn a ditch round his factory to carry off the water, and to render the air more salubrious; the Council of Calcutta, from the report of a British engineer, had declared before-hand, that it was not contrary to the treaty of Paris; however, the work was scarcely finished, when the British destroyed it with an armed force, and without any previous requisition. All the complaints brought against this act of violence, have been in vain; and the King, who could himself have taken that just satisfaction which had been refused him, contented himself with stopping the liquidation of the money which the English East-India company claimed for the maintenance of the French prisoners made during the last war.

2. The British carried to an excess the vexations which they made the French trade suffer in all parts of India; they dared to exact custom-house duties; they committed violence on whomsoever refused to pay them; they forbade the Indian weavers to work for the French, or to furnish them with any goods, under pain of being whipped: in fine, they carried their insolence, and the abuse of their superiority, so far, as to whip a Jamador, or Factor of the French factory at Dacca; this happened in the year 1774. The Sieur Barwell, who was the author, carried his madness so far, as to publish by sound of trumpet in the streets of Dacca, as well in his own name, as in that of the Nabob and the English company, a Proclamation, declaring, “ that he would impale all the natives of the country, who
“ should

"to prevent and put a stop to the abuses which
 "happen but too frequently from the British com-
 "manders at sea."

All
 "should put themselves under the protection of the French
 "flag." These unparralleled facts were laid before the British
 ministry; they could not help condemning them; but they
 have been left without any kind of redress; they contented
 themselves with communicating, about the end of November
 1776, a Memorial in which the English Company endeavoured
 to palliate the abuses of their officers. It is to be observed, that
 this abuse was carried so far, that the Sieur Chevalier, the King's
 commander in Bengal, was obliged to quit the factory of Dacca.

3. The Sieur M'Namara, Lieut. Governor of Senegal, made, in
 a drunken frolic, a wager of one hundred guineas, that he would
 take out of the ports of Joal and Portudal, appendants to Goree,
 all the French vessels that were there; this project was executed.
 The French vessel La Grue, was taken out of Portudal, by the
 British vessel the Dartmouth, and confiscated with all her cargo,
 among which was eighty negroes. This unexampled fact was
 laid before the Court of London; the punishment of the Sieur
 M'Namara was demanded, and the restitution of the vessel and
 effects, and payment of damages. The British ministry con-
 demned the conduct of the Lieutenant Governor, and promised
 to do justice to the parties injured; this promise has never
 been performed.

All the world must agree, that this answer contained the most just and wise principles, in a word, principles, to which the powers that may be attached to England, by the most intimate connections, and even by a community of interest, could not have given a greater extent. The British ministry themselves have seen it in this point of light; it may at least be supposed, as at the time they did not make any reply on their part; and have only undertaken to censure them, for the first time, in their *Justificative Memorial*.

We ought not to omit to speak of two things, with regard to which the compiler of the publication of the British Court hath given a free course to the violence of his passion, viz. The conduct of the inhabitants and commanders of the French islands; and the sending French officers to America. This last grievance has been produced for the first time in the *Justificative Memorial*: Lord Stormont, in spite of his unremitting vigilance, had not represented it to the King, because he well knew that it was without foundation. It ought then to be regarded as a fiction, although it is related in a ministerial

nifferial publication: It is in reality a fiction; for it is certain that the King never sent a fingle officer to America, neither before nor fince the declaration of Independence; not even after the conclufion of the Treaty of February 6, 1778. It is true, that a confiderable number of French officers, fome of whom were without employment, others weary of repofe and inactivity, offered their fervices to the United States, but not one of them had the countenance of his Majefty; he, on the contrary, endeavoured to throw obftructions in the way of thofe whom he knew were going of their own accord: Nothing can be a better proof that they were not fent by his Majefty, than the cold reception fome of the French officers received in America, as it is to be prefumed, that Congress would have judged them worthy of their attention and confidence, if they had been recommended by the King or his miniftry.

As to the reproaches concerning the conduct of the French commanders in the Weft-Indies, they are of the fame kind with the greater part of Lord Stormont's complaints, that is, they are, moftly

according

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without

without foundation (r), and they ought to appear
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(r) Grievances in the West-India islands, as set forth by England.

May 18, 1777. A complaint of the British Ambassador, with regard to an English sloop taken near Martinico, by an American privateer, under Spanish colours; and the public sale of another English sloop, the Apollo, made at Fort Royal, Martinico, likewise of her cargo of negroes. The truth, from the report of the Count d'Arband, is, that a little time after the capture of the first sloop on the coast of St. Christophers, an American privateer sloop anchored in Sloop Harbour; the Captain of the privateer asked permission of the Commandant of a guarda costa to take in water; the latter searched the privateer, and having found on board a number of negroes, gave him water, and obliged him to put to sea again.

As to what relates to the Apollo, no trace thereof was found; and it was so much the less probable, according to the Marquis de Bouille, as this Governor did not permit the American privateers which came to Martinico, to remain more than twenty-four hours to take in water, and as he took all necessary precautions to hinder them from making any sale.

June 14, 1777. According to Lord Stormont, a vessel belonging to the Sieur Prgent of Martinico, commanded by one of the name of Ord, the only American on board of her, had, on the 18th of March that year, taken the Venus, an English ship; and in according

so much the more strange, as while the Court of
England, her officers were committing the
London
unintereable excesses in the West-India Seas

according to the note of the British Ambassador, this ship was
in a bay, a league from St: Pierre. The Marquis de Bouille
received orders to examine the facts, and, provisionally, to
direct the English ship to be restored: he was ordered, at the
same time, and had in charge to inform the Commandant of St.
Lucia, that the admission of American privateers, bringing
prizes into the harbours of the French islands, could not have
place, but conformably to the rules of neutrality, that is, that
those privateers should be obliged to set sail again, with their
prizes, in twenty-four hours, saving the cases excepted by the
ordinance of 1681; and that all sales of prizes and their car-
goes should be forbidden. The answer of the Marquis de Bouille
is conceived in these terms.

Copy of a Letter from the Marquis de Bouille, to M. de Sartine.
These observations were made to
Martinico, September 15, 1777.

SIR, we were added to them, of which the principal was, That
I HAVE had the honour of informing you, of the orders I had
given for preventing any French ships of these islands being armed for
cruising; and since I gave these orders, which I have taken care to have
strictly regarded, I have received no account that there has been any
such infringement of treaties, which insure peace between France and
England; I shall proceed on the same principles, regulating myself by
the instructions you have given me.

The British Admiral, and the Governors of the several Colonies have
made

London accused the inhabitants of the French Islands,

made no complaint of this kind to me, since I informed them of the intentions of my Court, and of my own conduct.

I sent for the Sieur Pregent, and communicated to him your letter respecting the capture of the Venus, and the selling her in a port of this colony. He by no means allowed that this prize was brought in and sold there; and as this affair happened before my arrival in this colony, I could have no knowledge of it. I do not authorise the anchoring of prizes but in conformity to the treaties, and the laws of trade; and the sale of them is never authorised, nor ever known.

The Sieur Pregent is a Canadian in the service of the American Congress, whom I have expressly forbidden to fit out cruizers in any port of the Colonies, and with Frenchmen; I have even obliged him to disarm two of this kind which he had fitted out before my arrival, and threatened to drive him from the island, if he should again commit the same fault.

You may be assured that I will exactly conform myself to the orders which have been given me for maintaining the neutrality; and I do not believe, that the English could complain of my conduct with regard to them; on the contrary, I have had many complaints to make against the Admiralty courts in the several Islands, of which I give you immediate information; and at Dominique they have been so convinced of the prevarication of their judges, that they have lately displaced one of them, who was guilty of prejudging and partiality, in a decree against a French vessel.

September

lands with being, so to speak, at open war with England, her officers were committing the most unsufferable excesses in the West-India seas (r), and had turned these seas into a theatre of piracy.

September 24, 1777. According to a judicial declaration made before a notary public of the island of Tobago, the Champion, an English ship, taken by the American privateer General Thomas, was carried into St. Lucia; a small part of her cargo was carried into St. Lucia; a small part of her cargo was landed in that island, and the residue sent to Martinico, and the ship disarmed in one of the bays of St. Lucia, in order to be sold.

Nothing was more vague than these facts; so it was impossible to state them properly, for want of a knowledge of the purchasers, of the places of sale, or of the nature of their cargoes: These observations were made to Lord Stormont, and many reflections were added to them, of which the principal was, That there were many retired desert creeks in the French islands, where nothing was more easy than to carry on a contraband trade; with which truths none were better acquainted than the British themselves; that, if the French governors are not able to put a stop to a fraud prejudicial to France, the Court of London, doubtless, will not pretend, that they ought to be responsible for the inutility of their efforts, with respect to the prizes made by the Americans.

(r) See note (r).

It cannot, however, be denied, that the inhabitants of the islands, irritated by depredations they daily experienced from the British, and seduced by the bait of a considerable gain, have established an extensive correspondence with the continent of North-America, and it was in the nature of things that such correspondence gave room for abuses: But the King put a stop to it, as far as it was in his power; and the measures taken by the commanding officers were so effectual, that the Court of London assured his Majesty of its satisfaction therein: The British ministers had, surely, forgot this particular; for, had they recollected it, it is probable they would have taken care not to fall into inconsistency with themselves.

But the British ministry constrained to do justice, at least impliedly, as well to the principles as to the conduct of France, were not more sensible, on that account, of the obligation they were under, of, at length, taking into consideration, the manifold grievances which the King had caused to be laid before them. Not only did these grievances remain without any redress, but the number of them daily increased

increased, through impunity, not to say, through private orders; and the unconcern of the British ministry, what pains soever they were at to hide it, under the mask of justice and friendship, discovered not only their evil intention, but also the opinion they entertained, that Great-Britain had the supreme and exclusive right of prescribing arbitrary laws to the trade and navigation of all nations, to insult all nations with impunity, in a word, to consider the sea as its exclusive dominion. Some of the new complaints made in the name of the King, respected the violation of the rules above set forth; and the motives to others of them were matters of a kind till then altogether unknown. A judgment may be formed of them from the two following examples:

1. The navigation of the British being annoyed by American privateers, the Court of London, to remedy this, granted letters of marque to merchant ships, that they might defend themselves in case of their being attacked. This precaution was of service, and did not, in the nature of it, lay any inconvenience in the way, as to the navigation of other powers:

powers: But it was natural to apprehend abuses; and it was so much the more necessary for the King to prevent them, as on the one hand he sincerely desired to maintain the good understanding which subsisted between him and the King of England, and on the other, his dignity, and the interest of his subjects, did not suffer him to expose their commerce to the inspection of British skippers. This double consideration determined his Majesty to make, on the object in hand, some friendly remonstrances to the Court of London. The British ministry found them to have good foundation, and they assured his Majesty's Ambassador, that the British vessels, fortified with permission to arm themselves, should not go on a cruise; that they had not power to hail and to visit the ships of other nations; in a word, that these vessels were not authorised to make use of their arms, but against the Americans which should attack them.

This declaration was made and repeated in the most precise and satisfactory terms: But it must be, either that the British ministry, notwithstanding their promises, did not expedite the orders which
ought

ought to have followed, or that the British captains did not believe themselves under obligation to regard them. Be this as it may, not only did the British merchant vessels disturb the commerce and navigation of the King's subjects, but they dared also to stop and carry into England several French vessels, under the pretext that they were laden with merchandise for America (*t*). We call on the Court of London, to prove the restitution of the French vessels taken in this manner, or even to produce the orders or the decisions in virtue of which these vessels were to be restored.

2. The Thamas Kouli Kan, a vessel proved to be French property, was laden and fitted out at Havre de Grace, in October 1777; she was bound to St. Domingo, with a cargo of merchandise not contraband: Nevertheless, the Thamas Kouli Kan was stopped in the gulph of Gascony, by an English ship called the Hector; the Captain of this last named ship,

(*t*) The Brigantine Renommee, Captain Ango, October 13, 1777; the Sieur Chandean the same day; L'Aimable Reine, Captain Berthelot, January 11, 1778.

ship, took forty sailors from on board the other ship, to do duty on board his own; he carried his prize to Portsmouth; the crew were put in goal, without sparing even the commander: The sailors were engaged either by threats or promises to make false depositions; and the outrage was carried so far, as to break up the vessel, in hope of finding written proof of [her destination which they suspected: Of all these proceedings the British ministry had full information.

The remonstrance of the Marquis de Noailles contained in substance, that in case the *Thamas Kouli Kan* had been laden with contraband military stores on account of the Americans, she could not have been seized and treated otherwise than conformably to the tenor of the twenty-fourth article of the treaty of Utrecht; but if this vessel were laden with goods not contraband, had her destination for the Colonies been ever so much suspected, or even demonstrated, she ought not to have been seized any where but on the coast of America, and by no means on the wide ocean; these principles were evident, and made void the seizure of the *Thamas Kouli Kan*;

but

but the British ministry were of another judgment. Their answer, worthy indeed of remark, plainly shews, that the Court of London pretends to have the right of restraining, at her good pleasure, the liberty of the sea, of interpreting, or annulling, as shall be most agreeable to her, the usages and treaties relative to this same liberty; that she confounds merchandises not contraband, with contraband military stores; that she transgresses the rules laid down by the 15th, 19th, 20th, 21st, and 24th articles of the treaty of Utrecht; that she allows herself to make arbitrary distinctions, such as favour only her own side of the question; that she dares to impose on other nations, obligations which have no other ground but her caprice, and the proposal of which she has formerly considered as an offence (u), and a sufficient motive for declaring war. If the reader will be pleased to compare this jurisprudence with that which France has claimed, he will be able to form a judgment which of the two powers pays a regard to the laws and rights of nations, and which of the two pretends to have the right of treading them under foot.

While

(u) See note (z).

While the Ambassador of England put the King's patience to the strongest-proofs, and while the Court of London was constantly repeating denials of justice to his Majesty's subjects, at the same time that the British officers continued to desolate them on the sea, an event came to pass in America, which essentially changed the face of things in that quarter of the world. This event was the defeat of the army under General Burgoyne: The news of this unexpected disaster, which arrived in Europe in November 1777, astonished the British ministers, and must have the more sensibly affected them, as it overthrew the plan they had laid for the reduction of the Colonies: We shall be convinced of this truth, by reading the speeches occasioned by it in Parliament. The first result of the tumultuous debates of both Houses was, the naming Commissioners of peace, to carry to America conciliatory bills; and that of the secret deliberations of the Council at St. James's was, to make advances, and to found the American Commissioners residing at Paris, and to propose to them peace, and a coalition against the crown of France.

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This last proposition was the consequence of the insinuations which the ministry of London had incessantly made against that of Versailles: They have affected to consider France as the cause, the support, in a word, as the author of the Revolution of which North-America presented them a view, and this opinion would naturally inspire them with the desire of vengeance; the opportunity of gratifying themselves might, and even must appear favourable to them, when they considered the security in which his Majesty lived, and the assistance which they flattered themselves they should find from the Americans. This prospect was so much the more proper to console, and even to dazzle the British ministers, as it perfectly corresponded with their most dear and most constant wish, a wish which for a long time had been the very essence of British policy, that of humbling France; and as the presumptuous confidence of that nation must have still grown greater, when they beheld the extraordinary armaments they had got ready, with a dispatch which surprized all Europe (x).

(x) In the beginning of the month of January 1777, the Court of London filed out a list of forty ships of the line. What was the object of this extraordinary armament but also of Contriving from France.

To prove the truth of this observation, we shall continue

The British ministry, led astray by this brilliant phantom, delayed not putting in motion all the secret springs, by means of which they thought they would be able to realize it. Emissaries came one after another, and watched the American Commissioners: Their discourse to every of them was, that *they should no longer continue the dupes of France; but must unite with the Court of London, and fall upon that power, &c.*

The Court of London denies the facts, and represents them as a *supposition destitute of truth, and even of probability, and calls upon France to produce the proof of it.* But can a subterfuge like this, possibly impose on any one? Who will suspect the British ministry to have carried their want of address or imprudence so far, as to leave direct marks of a darksome manœuvre, and of not having, on the other hand, taken the most effectual measures, that *in* ourselves to remark, that in the beginning of the month of January 1777, the Court of London fitted out a fleet of forty-three ships of the line. What was the object of this extraordinary armament? It is an enigma which it is not difficult to solve,

in case of discovery, it might not be imputed to them. The denial which the *Justification Memorial* contains, is a consequence of this reckoning; but in order to merit any attention, it should, at least, have been founded on great probability. True it is, that according to the British ministry, *the King of Great Britain could not be suspected of not having offered place to his subjects, after a long and hard contest, but with design of entering into a new war against a respectable power.* But some very plain reflections will make it clear how illusory this affected language is, and how little it deserves belief.

○ If the Court of London, as the ministry endeavours to make us believe, either sincerely, or in order to impose upon the English nation, are bound on its King: If I say, the Court of London has experienced unpardonable injuries from France, if it has reason for reproaching her with the defection of her Colonies, they must consider her dignity and most essential interests as wounded, and from that time must have the most ardent desire, not only of taking vengeance, but also of recovering from France what the Crown of England lost in America. In consequence

quence of this plan, it was natural for the British
 ministry, unable to subdue her Colonies, to seek to
 be reconciled to them, and to engage them to espouse
 her resentment: They might so much the more flate-
 tor themselves that they should succeed herein, as
 the proceedings of France, with regard to American
 privateers (which they certainly considered as the
 happy fruit of their great wisdom) and especially
 the dislike the King had at all times manifested to
 any engagement with the Congress, must have given
 disgust and dissatisfaction to their deputies, and in-
 duce them, notwithstanding their well known aver-
 sion, to seek even in England, the safety of their
 country, when they failed to find it in France. To
 these reflections may be added, the opinion the Court
 of London has of her own power, the contempt
 with which she has, on all occasions, spoken of the
 strength and resources of France, the conceit she
 has of her being superior to all nations, and that she
 is in a condition to crush France even united with
 Spain. Such hath been and still is, the language of
 the British ministers, and such are the echoes kept
 up in the Parliament of Britain and the Congress
 of the Crown of England and of America. In consequence

In this situation, ought it not to be supposed, that the moment the British ministry perceived the necessity of yielding to the efforts of the Colonies, they conceived the project and the hope of punishing France, for the wrongs they had imputed to her! Such have, indeed, been the intention and conduct of the ministers of the King of Great Britain: We have already affirmed, in the *Exposé de Motifs*, and we repeat it here, with that assurance which nothing but truth can give; and the King dares flatter himself that the opinion which all Europe has of his rectitude and probity, will have more weight than a denial merely hazarded, and which they have not even had the address to render probable.

Moreover, although the King had not had certain proof of the hostile views of the Court of London, it would have been sufficient for him to have had probable grounds to suspect that they existed: Now, what must his Majesty have thought of the sight of the immense and hasty warlike preparations of the Court of London! her arbitrary proceedings, her denials of justice, her arrogant pretensions!

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What must he have allowed to the last words of the idol and oracle of the British nation, Lord Chatham, who dragged himself to Parliament, there to expire exclaiming, *Peace with America, and war with the house of Bourbon!* The Court of London herself has justified the suspicion and foresight of the King, by the hostile orders sent to India before the declaration of the Marquis de Noailles, and even before the signing of the treaty of February 6, 1778. The British ministers have felt all the force and all the truth of this reproach, and have passed it over in silence, because they were sensible of the impossibility of removing it.

The King well informed of the plan of the Court of London, and of the preparations which were the consequence of it, perceived that no more time was to be lost, if he would prevent the designs of his enemies: His Majesty determined, therefore, to take into consideration, at length, the overtures of the Congress.

The Commissioners proposed to the King a treaty of amity and commerce, and an alliance offensive

fenfive and defensive, by which his Majesty should
 engage, not only to acknowledge simply and purely
 the Independence of the United States, but also to
 guarantee and defend it by force of arms. The King
 ordered an answer to be given, that he could indeed
 look upon the Independence of the United States
 as existing; but that it did not belong to him to
 acknowledge it, because he had not any right to
 judge of it; neither could he guarantee it, as he did
 not intend to enter into a war for its support. His
 Majesty, in consequence, refused an offensive alli-
 ance, and confined himself to the Treaty of Amity
 and Commerce. But as it was more than probable
 that the Court of London had formed the design of
 attacking France, his Majesty thought he ought to
 enter into an Alliance with the United States,
 Eventual and purely Defensive. The stipulations
 contained in this second Treaty are in substance, that
 if France should be attacked by the Court of Lon-
 don, before the cessation of hostilities between that
 Court and its Colonies, then, the King and the
 United States should mutually assist each other
 against the common enemy: That the King should
 guarantee the Independence and Sovereignty of the
 United

United States, and that he should not lay down his arms till it should be acknowledged by Great-Britain. This treaty was an *ens rationis*, and did not hinder the Colonies from treating with Britain without the concurrence of the King; as long as the quarrel was between them only; it left the King of England absolute master of war or peace, and acquired a reality only by the rupture between his Majesty and the Court of London; a rupture which is the voluntary work of that Court (y). This last treaty remained

(y) The British ministers themselves have been so sensible of these truths, that they have not presumed to contradict them; it is for this reason that they have been very careful to pass over in silence, the eventual Treaty of Alliance; if they had spoken of it, they would have been obliged to analyse it, and this analysis would have been their condemnation. They will not say that they were ignorant of this treaty; for Lord Stormont assured the House of Lords, that he was always perfectly acquainted with every the most secret matter, that passed at Versailles; besides, this very treaty has been published in America with every mark of authenticity; and certainly the friends of the Court of London, which she declares to be so very numerous, have not failed to send to them a copy of it. The British ministers, then, have had notice of it; and they cannot deny it, without charging Lord Stormont with neglect, and their friends in America with unfaithfulness or ingratitude.

remained secret, because it was not in force at the time of concluding it. But that of commerce was notified at the Court of London, March 13, 1778. The Declaration delivered for this purpose to the ministry is in the following terms:

DECLARATION delivered to Lord Weymouth, March 13, 1778.

THE Undersigned Ambassador of his Most Christian Majesty, has received express orders to make the following Declaration to the Court of London:

The United States of North-America, who are in full possession of Independence, as pronounced by them on the 4th of July 1776, having proposed to the King to consolidate by a formal convention the connection begun to be established between the two nations, the respective Plenipotentiaries have signed a Treaty of Friendship and Commerce, designed to serve as a foundation for their mutual good correspondence.

His

" His Majesty being determined to manifest the good understanding subsisting between France and Great Britain, by every means compatible with his dignity, and the good of his subjects, thinks it necessary to make this proceeding known to the Court of London, and to declare, at the same time, that the contracting parties have paid great attention not to stipulate any exclusive advantages in favour of the French nation; and that the United States have reserved the liberty of treating with every nation whatever, upon the same footing of equality and reciprocity.

" In making this communication to the Court of London, the King is firmly persuaded, he will find new proofs of his Majesty's constant and sincere disposition for peace; and that his Britannic Majesty, animated by the same sentiments, will equally avoid every thing that may alter this good harmony; and that he will particularly take effectual measures to prevent the commerce between his Majesty's subjects, and the United States of North-America, from being interrupted; and to cause all the usages received between commercial nations to be

they in this respect observed as and all these things
 observed, which can be said to subsist between the
 the two crowns of France and Great Britain, and it was
 not till they had lost all hope of obtaining justice,
 that in this just confidence, the undersigned Am-
 bassador thinks it superfluous to acquaint the British
 minister (that the King his master) being determin-
 ed to protect effectually the lawful commerce of his
 subjects, and to maintain the dignity of his high
 his Majesty has, in consequence, taken effectual
 measures in concert with the United States of
 North America, his 31 to vilage and enemies of
 the Americans, and to reduce them by conquest. But
 not "LONDON, March thirteenth, one thousand seven
 hundred and seventy-eight."

Signed The Marquis de Noailles

Such is the Declaration which the King of Brit-
 tain laid before his Parliament, as an insult offered
 to his person and crown, as a formal and premed-
 itated aggression, in a word, as a declaration of war;
 and agreeable to suppositions of this kind, the Court
 of London accuses the King of being the author of
 the war, and represents him as the violator of laws
 divine

divine and human, as a prince who would destroy the balance of Europe, who would overturn all thrones, in order to give law to the universe, to own dignity, and the good of his people, thinks it be-

The act, however, which has drawn upon the King such odious imputations, has for its foundation two incontestible truths, the first, that at the period of the 4th of February, 1778, the Americans had the public possession of their Independence; the second, that the King had a right to look upon this independence as existing, without being obliged to examine the legality of it, and that no law forbade him to form connexions with the Americans. To demonstrate these two truths, which the Court of London contests, it will be unnecessary to have recourse to distinctions as idle as they are misapplied, and to offer facts and principles with a studied confusion. We shall lay open events with as much simplicity as exactness, and shall call upon no other principles, but such as have been acknowledged at all times, by all well governed nations.

The whole world knows that the thirteen provinces which form the United States of North-America, have

have for a long time raised a suppliant voice against the despotism of their mother-country, that they have experienced refusal upon refusal; that it was not till they had lost all hope of obtaining justice, that they leagued together to maintain their privileges, sword in hand; and soon after published that solemn act, whereby they declared themselves Independent: This Act, which is of July 4th 1776, induced the Court of London to give way to her resentment; she displayed her power to chastise the Americans, and to reduce them by conquest. But what has been the fruit of their efforts! Have they not served to demonstrate to America, to all Europe, and to the Court of London herself, her impotence, and the impossibility of her ever hereafter bringing the Americans again under her yoke! In short, we have seen the British troops, armed with the sword of vengeance, fly precipitately from Boston, seek an asylum at Hallifax, and come to New-York, in order thence to spread terror, desolation, and carnage in parts of the country without defence; but what has such barbarous conduct effected! Has it brought the Americans back to the bosom of their mother-country? Has it brought about a *voluntary* sub-

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mission,

million, not of a province, but of a single city, borough, or hamlet? Has any of the confederate colonies recalled its delegates from Congress, to send them to London? What have been and are the possessions of the British crown on the continent of confederated America? His troops have made inroads in all the states: But do we see there any thing but bloody traces of their fury and brutality; but citizens which obey through force? They have, in their possession, the city of New-York, some adjacent islands, and a part of Georgia; they have sacked, burnt, destroyed several considerable towns; they have carried fire and sword wherever they have penetrated. -- It is this which the British ministry calls being masters of the vast continent of America; this is the possession by which they pretend to reduce to nothing that of the United States; this is that which they call having dominion over the Americans! Is there any one who can really be persuaded by these as truths, that in any circumstance, since the publication of the act of independence, *the Americans have begun to open their eyes on the fatal consequences of their rebellion, on the* tyranny

tyranny of their new leaders, and on the paternal sentiments of their lawful sovereign.

The British ministry have so well perceived the weakness of this pretence, that they have sought to strengthen it by the ancient possession of the British crown, that is, by a possession known and acknowledged by all the powers. It was useless to assert the right of this possession, since it never came into the King's thought to contest it; and the British ministers, without dispute, would have defended their cause with more advantage, if they could have proved, that a rightful possession could not be lost in any case. But how would they have dared to undertake this proof, without being willing to contradict the annals of every country in the universe? How could they reconcile it with the facts presented by the history of Mary Stuart, that of Charles I. and James II, with the laws which confirm the crown of England to the house at present on the throne.

It ought then to remain as certain, that however rightful, however ancient, and however acknowledged may have been England's possession, with re-
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gard to her ancient Colonies, she might lose it. That effectively she had lost it July 4, 1776. And that she has not regained it since this period. From thence it follows, that France could say with truth, that at the moment of the signing of the Treaty of 1778. *The United States of North America were in full possession of their Independence.*

The British ministry expect to overthrow the consequences which arise from this truth, in maintaining, that the possession of the Americans is without right; that it never has been nor could be made valid, that it is a real felony: but in advancing this proposition, they without doubt, forgot the conduct which they themselves have maintained with regard to the Americans, since the publication of the Act of Independence. It may be recollected that the creatures of the court have constantly called out rebellion, vengeance, destruction: Nevertheless, notwithstanding all these clamours, the British ministry have ceased, after the declaration of Independence, to prosecute the Americans as rebels; they observed, and still observe, with regard to them, the laws of war, used amongst independent nations;

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the American prisoners have been exchanged by virtue of cartels, signed by Commissioners of Congress; the British troops have capitulated and their capitulations have been respected. The court of London has acknowledged the authority of the new Republic, by authorising commissioners of peace to treat on equal footing with the commissioners of America. Moreover, that the United States had, or had not the right to throw off the sovereignty of Britain! That the possession which they have of Independencé is, or is not rightful: It does not belong to France to discuss these two questions. The King is not to judge of the domestic quarrels of Great-Britain; neither the law of nations, treaties, liberality, nor policy, impose on him the obligation to be the guardian of the fidelity which the British subjects may owe to their sovereign. It is sufficient for the justification of his Majesty, that the Colonies, which form a Nation considerable, as well for the number of their inhabitants, as for the extent of their dominions, have established their Independencé, not only by a solemn declaration, but also in fact; and that they have supported it against the efforts of their mother

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country. Such was, in effect, the situation of the United States, when the King began to negotiate with them: His Majesty had full liberty of considering them as independant, or as the subjects of Britain; he chose the first part, because his safety, the interest of his people, invariable policy, and above all, the secret projects of the court of London, imperiously laid him under the necessity: We ask if there is a Sovereign who, in the same situation with his Majesty, would not have imitated his example? Nevertheless, it is this same conduct which the British ministry pretend to have been dictated by pride, and by artifice; which they affirm to be irreconcilable with the truth of facts and the principles of the law of nations, which they represent as unfit to see open day, which they hold out to all the world as a violation of the law of nations, as an injury done to all sovereigns and to humanity.

Before they had given up themselves to a language so vehement, before they had indulged themselves in imputations so weighty, the British ministry ought to have examined, with a spirit of justice

justice and impartiality, the rights and the duties of sovereigns; they ought above all, to have consulted the annals of almost all empires, and principally those of Great-Britain. We believe that we ought to supply this omission, and we dare to flatter ourselves beforehand, that the result of the analysis, which we undertake, will be very different from the assertion, or to speak more properly, the paradoxes, hazarded by the Court of London.

The Independence of nations, with regard to each other, is the primitive and fundamental basis of the law of nations; it is absolute, unlimited, and it admits no modifications and restrictions but those which are founded on engagements, or which conscience prescribes, or finally, national interest demands. In the first case, a nation has fixed a bound to herself which she cannot pass; but in the two others, its determinations, and its conduct can depend only on its own judgment, and whoever undertakes to restrain it in this respect, will injure its Independence.

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The application of these principles, with regard to France and England, is not difficult to make; France is independent of the British crown; no engagement lays the King under obligation to maintain this crown in the whole of her possessions, and still less to keep her subjects in obedience. Thus his Majesty had not any duty to fulfil in behalf of England, relative to North-America; thus his Majesty was not obliged, either to assist England against her Colonies, or to reject those Colonies when they presented themselves to him as an independent People.

If we believe the author of the *Justificative Memorial*, the King was bound to these different duties, in virtue of the last treaty of Paris; but it is visible that to support a proposition of this nature, despite the sense, the spirit, the scope of a simple treaty of peace, and confound a treaty of this nature with a treaty of alliance. That of Paris laid the King under no other obligation, but to live in peace and in good friendship with Great-Britain: To extend this obligation, is to be wholly unacquainted with, or to despise the first

the first ideas of the diplomatic science, and the opinion of all nations. no even ten law subjects

The Court of London gives to understand, that she had a right to consider, as a sacred engagement on the part of the King, the multiplied assurances he has given of his friendship, of his pacific sentiments, and of his desire to observe treaties. The King is very far from denying these assurances; but what was, and what could be their sense and their basis? Do they not suppose a perfect reciprocity on the part of the King of England, and this reciprocity ceasing, his Majesty, was he not disengaged from his word? The British ministry could so much the less doubt that this was not the King's very way of thinking, as it has been repeatedly expressed by himself in this manner, on several occasions: We request them to recollect the language which the King's Charge des Affaires used to them in the month of March, 1776, in laying complaints before them, against the irregular practices of the British vessels in the West-Indies; we request them above all, to recollect the frequent representations of the Marquis de Noailles, and those of his Majesty

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and Ministers; an account of which Lord Stormont, doubtless, will not have omitted to lay before his Sovereign.

The King was not more restrained by his conscience than he was by his engagements? This assertion has no need of proof; it is sufficient for his Majesty, that he believes himself free from all reproach, that he has it in his power to say, that in considering the Americans as Independent, he violated neither the law of God nor that of Nations: If the court of London dares to contradict this morality, we demand of her, who upon the earth, is the judge of Sovereigns? Who has the right to prescribe to these, rules of conduct? Who has the power to oblige them to follow these rules? So long as peace subsisted between France and England, the King had no more right to attack the British Provinces, than to relieve and assist the subjects of this Crown; but he had the right to consider as Independent the confederate Inhabitants of an immense Continent, who presented themselves to him with this character, especially after their antient Sovereign had demonstrated, by efforts as continued

as painful, the impossibility of bringing them back to obedience,

There is, we may dare to believe, no Sovereign who will not agree to the justice of this maxim of law of nations; the Court of London alone, a long time accustomed to have arbitrary principles adapted to the circumstances of the moment, apprehends she can call it in doubt, at the same time, that she affects to give an alarm on the dangerous consequences which she pretends to discover from it. But this Court has not probably at all perceived, that she throws herself into a manifest contradiction with the doctrine which she has professed and has followed heretofore; one example alone will suffice to bring her back to her own principles, it is that of the Seven United Provinces of the Low Countries; the conduct held by Queen Elisabeth, with regard to them, deserves to be unfolded.

The Flemings having concluded in 1576, the peace of Ghent, for the defence of their Liberties and of the Protestant Religion, Elisabeth allied herself with them by a secret treaty, in virtue of which she

promised

promised to furnish them with troops, warlike stores and money. The King of Spain, Philip II, complaining to the Ambassador of the King of England, it was given in charge to the Ambassador by his Sovereign, to deliver to his Catholic Majesty an ample information, containing the strongest protestations of his amity, and of his attention to remove every thing that could disturb the good understanding which subsisted between the two monarchies, Elisabeth defended herself in a warm manner against the reproach which they had cast upon her, of fomenting the rebellion of the Low Countries; and this Princess added, that in furnishing the Confederates with assistance of men and money, her policy had a double object, that of hindering the insurgents, reduced to despair, their resources being exhausted, to give themselves to a foreign power; and the other, that of preventing the absolute subjection of the Low Countries to the Spaniards, an event, which might involve very disagreeable consequences to England, &c.

By a new treaty of January 7, 1578, Elisabeth promised considerable succours to the Confederates,

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on condition that they should not make peace with their Catholic King, without comprehending in it the Prince of Orange. At length the Confederates declared themselves Independent in 1581. This step was quickly followed by a new defensive alliance: It took place August 10th, of the same year. The Dutch acknowledged in the full powers they gave to their Ministers, the circumstance, that they had entirely shaken off the yoke of Spain, and were declared free and independent of its sovereignty. In justification of this last treaty, Elisabeth published a Manifesto, in which she recalled to memory the cruelties which the Spanish Governors had committed in the Low Countries, and the projects formed by the Court of Madrid to destroy their liberties; she declared, at the same time, that she was obliged to support the United Provinces in defence of their liberty, because it was the only means of preserving to the English the freedom of commerce with the Low Countries, and to guard England from the invasions which Spain, with the greatest ease could make upon her island, if she had once re-

duced these Provinces under her absolute obedience? Finally, Elizabeth observed, that the treaties which antiently subsisted between England and the Sovereigns of the Low Countries, had been concluded not only between these Princes, but likewise their respective States, for their mutual defence; and that thus in protecting the United Provinces against an unjust despotism, she only caused exactly to be fulfilled the last part of her engagements, without contravening in any manner that which she owed to the Sovereignty of these Provinces. It is to be remarked, that the publication of this Manifesto did not occasion the recall of the respective Ambassadors; and that three years after its publication, that is, in 1588, Elizabeth continued at the request of Philip II, to pursue the office of mediatrix between this Prince and the United Provinces, at the Congress of Bourbourg. This faithful brief narrative of the conduct of Queen Elizabeth, with regard to the Low Countries, will, without doubt, convince all the

world, that this Prince not only acknowledged
 the right which every Sovereign has, to treat
 with a people who have declared themselves In-
 dependent, but also that she has given to this
 right an extent, which the King did not allow to
 himself, with regard to the United States; that
 even if this right were less clearly established,
 the Court of London is precluded from denying
 it, and that in so doing she proclaims herself to
 the world, as obnoxious to all the reproaches
 which she has lavished on France.
 To this remark may be added a reflection fur-
 nished by the very records of the British Parliament.
 For several years past this Assembly has re-
 sounded with nothing but the quarrel with America. This
 quarrel has been examined and discussed in all its
 relations; and under every point of view, the Ame-
 ricans have had constant patrons, no less zealous
 than distinguished for their abilities and rank; a part
 of the nation have uniformly supported the Cause of
 the Colonies; there are even citizens of every de-
 nomination, who, far from regarding them as gui-
 ty of high-treason, have, on the contrary, accused

of this crime the Members of Parliament who, in order to fulfill the engagements to the Ministry, have applauded the persecution which America has undergone; because they considered it as a tyranny, as a subversion of the British constitution. Now, if Englishmen themselves have dared to justify the Americans; if they have dared it with impunity, in the midst of the national Assembly, in writings public and avowed; if they have not been denounced as traitors to their country, how can the British Ministry represent the King as the most perfidious of Sovereigns, for having thought in the same manner with a respectable part of the British nation.

To complete the justification of the King, now nothing remains but to examine, whether what are called *Reasons of State*, could have determined his Majesty to connect himself with the Americans. To treat this question with all clearness of which it is susceptible, the political interest of France must be viewed under two different relations; the first respects the other powers of Europe, the second respects Great-Britain.

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in treating with the Americans, after they became independent, the King exercised the right inherent in his Sovereignty, with no other view than to put an end to the predominant power, which England stood in every quarter of the globe; so far then was the King from fearing that he should offend against the interest of his State, on a supposition that he might injure that of the other Sovereigns of Europe, or even give them the least umbrage; that he has on the contrary, essentially watched over the interest of all, by contributing to restrain a power, which has always carried to excess the abuse of her resources. It is true, the Court of London is very far from regarding the conduct of the King under this point of view; she represents his Majesty, as having had no other object, but to satisfy his immoderate ambition, his inextinguishable hatred of Great-Britain, his lust of domineering over all nations, after having crushed Great-Britain.

To annihilate these reproaches, it will be sufficient to recollect the engagements which the King has entered into with the Americans: One may

venture to defy persons the most prejudiced against France, to find in them the least trace of the pretended ambition of the King, and of the pretended project of demolishing the power of England: Nothing more will be discovered in them, on the most accurate scrutiny, than a diminution of this power, a diminution which England has herself provoked, by a conduct the most unjust and most irregular, and which the tranquility and happiness of Europe have for a long time required: For the truth of this, we apply to the judgment of all nations, who have the least connection, either political or commercial with Great-Britain.

With regard to the interest of France, as it respects England, it is easy to determine. It has for a long time been a maxim with the Court of London, that she ought to maintain an exclusive dominion in all the seas; all her steps have been constantly directed to this end. The power of France was one of the greatest obstacles to her views; it was requisite therefore, either to destroy it, or at least to circumscribe it within such narrow limits, as would render it of no effect: Hence the wars, which

which Great-Britain has excited or supported against France : Let all the treaties, concluded since Cromwell, be examined, and there will be found in all of them traces which strike the mind, at the same time they cause it to revolt against the haughty, jealous and encroaching policy of the Court of London.

In this state of things, under what point of view ought France for a long time past, to have considered Great-Britain ? She could not certainly regard her but as a secret enemy, and so much the more dangerous, as her power was equal to her evil intentions ; that she never scrupled masking her dangerous designs under an apparent confidence and friendship ; that she has at no time paid any respect to treaties, except when she wanted peace ; and that she has always thought war to be lawful, when her interest advised her to engage in it. The most vigilant and consummate prudence could not devise adequate precautions against the enterprizes of such a power ; so that the only means of being secured from it, was to seize the opportunity of diminishing it.

It

It may then be truly said, that on examination of the conduct of the King, under the three relations which have been above pointed out, independently of the particular causes which ought to have determined it, it was not only just and lawful, but even necessary as well for the individual interest of France, as for that of all Europe. Thus, so far has his Majesty been from subverting all principle in allying himself with the Americans, that, on the contrary, it may be maintained, that he was at liberty to consider and treat them as independent, after the publication of their Manifesto of the fourth of July, 1776, and that in so doing, he has violated neither the law of nations, nor treaties, and that he has still less done an injury to England, and broken the peace with that power.

These consequences will require a new degree of force and conviction, if the proceedings of the Court of London be taken into consideration, not from the date of the last peace, but from the period when the *Sieur Deane* appeared in France, until that, when the *Marquis de Noailles* notified at
London

London the treaty of the 6th of February, 1778, the British Ministry began with contesting the right of the King, to grant an asylum to Americans, afterwards they pretended, that all commercial intercourse with the United States ought to be interdicted to his subjects: These two articles have given birth to insinuations and to complaints incessantly renewed, and the Justificative Memorial treats this object with a violence, which proves, that the British Ministry had lost sight of the first principles of the law of nations, of treaties, and of the usages of the sea.

Whilst the British Ambassador renewed without intermission complaints, unjust in their object, and almost always destitute of proofs, the King demanded in vain from the King of England, justice for the daily violations of treaties and of maritime laws, for depredations and piracies exercised by his subjects, for insults offered to his flag and to his territory; and whilst his Majesty, constant in his system of moderation, exhausted himself in acts of complaisance towards England, and all the official steps of the Marquis de Noailles passed

without effect, the British Ministry, convinced, that notwithstanding their formidable armaments, any subjugation whatever of the Colonies, was in future impossible, proposed to Parliament the means of conciliation; they endeavoured at the same time, to open a secret negotiation with the Commissioners of Congress at Paris; they were disposed to yield every thing, even Independence in fact, provided they could retain a *nominal dependence*. But war against France, was to have been the price of so great a sacrifice. The King, apprised on one side of the offers and hostile views of the Court of London, and on the other of the unshaken resolution of Congress, not to suffer the least trace of their former subjection to remain: The King, I say, did not hesitate, and he could not hesitate, to take a part; and there was one part only for him to take, that of attaching himself to the United States, by entering into treaty with them. If the King had acted otherwise, and had continued in that security with which the Court of London laboured to inspire him, he would have been taken off his guard, and it is easy to foresee the judgment which the present age and posterity

posterity would have passed on his sagacity, his wisdom and his vigilance. To deceive the other nations, with regard to the real motives which have directed the conduct of the King, the British Ministry maintain, that he entered into treaty with the Americans, not because he feared the secret views of Great-Britain, but because he foresaw that the Americans defeated, discouraged, without support and without resources, were about to return to their mother-country, and that there was not a moment to be lost in re-animating and confirming them in their opposition. It was without doubt, for the sake of this assertion, that the British Ministry have thought it beneath the dignity of their Sovereign, to search for the period at which France formed connections with the United States ; it might with greater truth be said, that this research did not coincide with their plan of defence. The King is willing to spare the British Ministry a task so disagreeable and so embarrassing, by observing for them, that the conversations which led to the treaties of the 6th of February, 1778, were considerably posterior to the capitulation of General

General Burgoyne. Now it is notorious that this event elevated the courage and the hopes of the Americans, as much as it dejected the British nation, and principally the Court of London. If then the King has listened to the propositions of Congress, after this period, so disastrous to the British, it has not been, and could not have been for any other reason, but because he thought with the United States, that their Independence was thenceforward irrevocable; England herself, thought as the Americans did. The sentiments of the nation were manifested by its representatives, and those of the Ministry by their conciliatory bills, and above all, by their clandestine advances towards a reconciliation. As to the Americans, they had very categorically expressed theirs, by rejecting with contempt the conciliatory bills, and the secret favours which were to serve both for their vehicle and for their support, even before they knew of the negotiation concluded between the Ministers of the King and the Commissioners of Congress.

Under

General

Under whatever relation, then, the conduct of the King, with regard to America, be viewed, there is the clearest evidence, that he has violated the rights of the Americans in his conduct. But as this Court has charged the King with an asylum in his dominions, that he has afforded an asylum in his dominions. *First*, That the laws of nations, sound policy, and the example of England herself, authorized the King to regard the Americans as independent in fact, from the period of the 4th of July, 1776, and that he might with still stronger reason do so, at that of the 6th of February, 1778:

Secondly, That in regarding them as such, and in forming connections with them, under that character, he has violated neither treaties nor the right of Sovereigns:

Thirdly, That in treating with them, he has not rendered himself guilty of perjury:

Fourthly, That the treaty concluded with Congress, was no offence against England; that consequently, the act by which it was announced to that power, was not a declaration of war.

The Americans have resided in several countries of Europe: We

and we might confine to these articles the answer
which the Justification Memorial seemed to require :

But as this Court has charged it as a crime in the
King, that he has afforded an asylum in his domi-
nions to Americans, and has permitted his subjects
to open direct commerce with the United States,
it will not be improper to shew, to what an ex-
travagance the British Ministry have carried their pre-
tensions on these two points.

In affording an asylum to Americans, the King
has only fulfilled one of the first duties of humani-
ty, at the same time that he exercised a right in-
herent in sovereignty, a right which belongs to all
independent nations, which can not be restricted
but by conventions, and the exercise of which is
carried farther in England, than in any other State
of Europe. The King had no reason to renounce
the exercise of this right to the prejudice of Ame-
ricans, because this Nation has never offended him,
and it would be the part of tyranny, an unheard of
cruelty, to expel them from his dominions, because
they were unjustly oppressed by Great-Britain.
The Americans have resided in several countries of
Europe ;

Europe, is there any one of them, from which they have been compelled to depart? One in which they have not enjoyed the rights of hospitality? One in which they have not been as undisturbed, and as secure as in the most inland provinces of America? Upon what ground then, does the Court of London pretend to make it a crime, in the King's reign, that he has not hunted the Americans out of his dominions? and to make the necessary provision for their support? This conduct the King has pursued. But the King has not only afforded an asylum to Americans; he has likewise given admission to their privateers and their prizes: And this is one of the principal complaints of the Court of London, upon which she lays the greatest stress, and which has furnished the most copious matter for her declamations, and her reproaches: A few words, however, will suffice to establish the true principles relative to this point; and to demonstrate, that the British Ministry have wilfully mistaken them.

The King is master of his own ports, and may admit into them the ships of all nations of the world; this right extends to vessels of war, as well as to merchant

merchant vessels, and admits of no restrictions but
 those which are established by treaties. That of
 Utrecht contains some restrictions relating to vessels
 of war; the fifteenth article imports in substance,
 that the contracting parties (France and England) shall
 not permit their respective enemies to arm in
 their ports, to sell their prizes therein, or to remain
 longer than may be requisite to repair their damages,
 and to make the necessary provisions for returning to
 sea. This conduct the King has punctually ob-
 served, with regard to American privateers: his
 intention in this particular is ascertained, by the most
 precise orders, and above all, by the execution of
 them: It is true, the British Ministry pretend,
 that these orders were illusory, that they were trans-
 gressed openly with impunity, and even under the
 authority of government: But this accusation is a
 calumny so much the more reproachful, as it is con-
 trary to public notoriety, ascertained even by the
 ministerial gazettes, printed in America.

If it be pretended, that the King ought to have
 denied all retreat to American privateers, because he
 ought to have considered them as pirates, it is asked,
 by

by what right the King could have adjudged them such? The Americans are not his subjects; he is neither the judge nor the arbiter of the domestic quarrels of England; he has adopted a neutrality, and he would have violated it, in the most shameful manner, by pronouncing on the condition of Americans. Those principles are certain, and to deny them, would be as truly matter of derision, as it would be a piece of adulation; an inexcusable weakness, to depart from them. It is the Court of London alone, that has had pirates at sea; these are her merchant vessels, which, in profound peace, have seized upon French vessels, and this Court will surely not maintain, that this proceeding was contrary to her orders or to her intentions, since the offenders, although announced, have remained unpunished, and the ships taken have not been restored.

As to the liberty which the King has allowed his subjects, of establishing a direct commerce with the Americans, it needs no justification, because all nations must, on consulting themselves, be convinced, that his Majesty might grant it, without doing injury to Great-Britain. It may not be amiss

merchant vessels, and...
however, to make a few observations on this im-
portant question. The Americans are not the judges of the
domestic law, but the judge of the domestic
law. In time of war, commerce may be divided into
two branches: the first comprehends innocent mer-
chandises, the second has for its object merchant
ships, known under the name of *military contraband*.
The first branch is not subject to any prohibition, and
the second is. Nations which embrace the part of neutrality
continue with entire liberty the first species of com-
merce with the belligerent parties; but the second
is prohibited: the merchandises may be intercepted
and confiscated, according to the regulations pre-
scribed, either by usage or by treaties. In consulting
both the one and the other, it will be found, not
that a commerce in articles denominated *contra-
band*, breaks the neutrality, but that the individu-
als, who venture upon it, expose themselves to
simple confiscation. Such is the law which has ex-
isted on this subject, between France and England;
it is stated in the nineteenth article of the treaty of
Utrecht.
From doing injury to Great-Britain. It may not be amiss
however,

Thus, according to the terms of this treaty, it results, that the King was not obliged to prohibit to his subjects, in reference to America, either the commerce of innocent merchandises, or that of contraband; and that the only obligation they imposed on him was, not to protect this latter species of commerce. To place this truth in its full light, the United States are to be considered under two different points of view, to wit, as subjects of Great-Britain, and as an independent People. On the first supposition, they owe obedience to the prohibitory laws of the Parent State, they are forbidden all direct commerce with every other country, except England: But does this prohibition, which is purely municipal, extend to foreigners? Has England the privilege of prescribing laws to other nations? Has she a right to prohibit a Frenchman, a Dutchman, &c. to make shipments for America? If she had this right, she would also have that of exercising it: she would then have that of performing acts of sovereignty over other nations. The prohibitory laws of England cannot be in force but within the limits of her sovereignty, and if she extends them further, she violates the public security, the liberty

liberty of the seas, the Independence of nations; she does an injury to all Sovereigns. This is the way in which the Court of London herself explained this matter, during the disputes which she had with the Court of Madrid, and which led to the treaty of Pardo (2).

The United States are to be considered under two

(2) It is an established principle among the European Powers, which have colonies, that the trade of their colonies is exclusive, that is to say, that no foreigner has a right to partake of it. This universal usage has been at all times more or less infringed, notwithstanding the advantages presented by a free maritime commerce. That of the Spanish continent, in America, offered inestimable ones to the English, and they were very far from neglecting to embrace them. They carried on the contraband with an insupportable audacity, and obliged the Court of Madrid to employ the means of force to restrain them. This Court established for this purpose Guarda Costas, with orders to stop and visit every British vessel sailing along the Spanish coasts, and laden with contraband merchandise.

The Guarda Costas have too great a latitude to their orders; they stopped English vessels on the open sea, and a very considerable number of these vessels were confiscated, because they were laden with merchandises, supposed to be either the growth of Spanish colonies, or destined for those colonies.

them further, she violates the public security, the

liberty

The

Thus, according to England herself, the prohibitory laws, relating to America, can have no operation, except within the vicinity of the American coasts,

The Court of London complained bitterly of the proceedings of these Spanish Guarda Costas: she maintained, that the sea was free in America, that no treaty had restricted this freedom; that Spain consequently could not controul the navigation of British vessels, or stop them, until they should be within their ports, harbours and rivers, or within a certain distance from her coasts. These principles, founded on the right of nations, were consecrated by the treaty of Seville, 1729; but the British continued their clandestine commerce, and the Spanish Guarda Costas, on their side, continued to abuse the orders of their Court; insomuch, that the discussions were renewed, and with so much acrimony, that the King of England was determined to grant letters of reprisal. The matter was warmly agitated in Parliament, during the session of 1738, and the two Houses presented to the King the following address:

"RESOLVED, *First*, That the subjects of Great-Britain have an evident and inviolable right to navigate in the American seas, as well in returning from, as in going to, any part of the dominions of his Majesty, and to carry on such commerce as is lawfully permitted to them, as also to transport all merchandises and effects, from one place within his Majesty's dominions to any other, and that the effects so transported, ought not, in virtue of any treaty, to be considered as contraband or prohibited merchandises,

coasts, which, agreeable to received principles, is deemed to make a part of that continent. The result is, that Great-Britain has no right to stop, at open sea, and still less to confiscate foreign vessels, bound

merchandises, and that it is a manifest violation and infraction of the treaties subsisting between the two Crowns (of Spain and England, *to visit such vessels at open sea, under pretext, that they are freighted with contraband or prohibited merchandises.*

“RESOLVED, *Secondly*, That it appears to the House, that sundry vessels, as well as their cargoes, belonging to the subjects of Great-Britain, have been by violence seized and confiscated by the Spaniards, under pretences altogether unjust and ill founded, and that thereby the liberty of commerce and of navigation, appertaining to the subjects of his Majesty, according to the right of nations, and in virtue of treaties subsisting between the Crowns of Great-Britain and Spain, has been infringed and interrupted, in a manner which cannot be justified, to the great prejudice of our merchants, and in direct violation of the *aforesaid treaties.*”

The King of England approved of this address, and supposed he should fulfil the wish and object of it, by the treaty of Pardo, 1739: It is well known, that by this treaty the contracting parties agreed to appoint Commissioners, for the purpose of devising means to prevent new subjects of complaint, and that the damages due to Great-Britain, after deducting the demands made

bound for America, whatever be their cargoes, and that she can not exercise this double right, but in cases where such vessels are so near the American coasts, as to be deemed within the territory of Great-Britain.

If on the other hand, the Americans be viewed in the light of an Independent Nation, or if it be thought better, a Nation with which England is at war; in that case, neutral nations have no obligations to fulfil, but those imposed on them either by usage, or by treaty. The losses sustained by the British made on Spain were liquidated, at the sum of ninety-five thousand pounds sterling.

The treaty in question was submitted to the inspection of the British Parliament; it gave rise to debates, animated, long, and interesting, all of which had for their basis, the indefinite liberty of navigation: It was charged as a crime on the British Ministry, that they had not stipulated it in the most explicit terms, conformable to the address of the two Houses; the sum of ninety-five thousand pounds sterling, at which the losses of the British merchants had been fixed, was considered as insufficient: In fine, the clamours of Parliament prevented the ratification of the treaty of Pardo, and occasioned reprisals, and in the sequel an open rupture between the Courts of Madrid and of London.

usage, or by treaties. Those which France is bound to acknowledge, are defined in the nineteenth and twentieth articles of the treaty of Utrecht.

The regulations contained in these articles, authorise the commerce of innocent merchandises, and they do not oblige the King to prohibit his subjects to carry arms and warlike stores to the enemies of Great-Britain; they simply declare, that in cases, where vessels laden with this species of merchandise, shall be met with, even at open sea, they may be seized and adjudged lawful prizes: So that contraband cargoes do not affect the King; he is not obliged to hinder them, and the only right, granted in this respect to England is, that of confiscation. From these details it results, that in whatever points of view the Americans be regarded, England cannot with justice require of the King, that he should prohibit his subjects to trade with them, and still less, that he should punish them, for having dared to do it. This conclusion will serve to determine the justness of the declamations, in which the British Ministry

Ministry have thought fit to indulge themselves against his Majesty, for not having pursued with vengeance those of his subjects, who, enjoying the liberty, appertaining to all nations, have furnished merchandises to the Americans.

It is true, that in order to give to their complaints an appearance of foundation, they cite promises made by the King, and infractions of them, which he not only tolerated, but even authorised and encouraged; and to express the perfidy of France, in two words, they accuse his Ministers of having exhausted all the means of *artifice* and of *dissimulation*, in order to lull Great-Britain—to divert the effect of her resentment from the birth of the American troubles, to the moment when the Marquis de Noailles presented the declaration of war——It is certain, that the King had promised to prohibit the exportation of arms for America; they were prohibited in fact, and whatever the English Ministry may say on the subject, it was prevented, as far as was possible, without encroaching on the liberty of citizens, without subjecting commerce to an inquisition, of

which there is no example in any corner of the universe, and with which the British themselves would have reproached us, as an intolerable despotism.

According to Lord Stormont, the prohibition of the King was transgressed daily, publicly, and even with the knowledge and under the eyes of public officers, whose business it was to watch over the execution of it. It is possible indeed, that French merchants may have run the risk, under false clearances, of shipping arms for America. But the greater part of the informations given in to the British Ambassador, were found either to be false, or unsupported by sufficient proof; so that it was impossible to convict, and consequently to punish the guilty, without carrying, not complaisance, but the abuse of authority so far as to regard the suspicion or the information of a spy, as legal and unexceptionable evidence. This is in truth, what Lord Stormont wanted; but the King could not but reject, as the Court of London wanted to have done, a requisition of this kind.

Besides,

Besides, although the King were to admit, that a bare suspicion, concerning the destination of French vessels, would justify the stopping of them, and that those particular vessels were guilty of a manifest contravention, in having on board merchandises, suited to the Americans, it would not be the less certain, that all the condemnations, passed in the British Vice-Admiralty Courts, are unjust, because they are all contrary to the tenor of treaties. In reality, the twenty-fourth article of the treaty of Utrecht, imports, that every vessel of war or privateer, shall keep out of reach of merchant vessels, and shall content themselves with sending a boat, with two or three men, to examine their sea papers; and according to the twentieth or twenty-fifth (a) articles; these papers, if, on examination, they appear to be regular, ought to be a sufficient justification of the merchant's captain, and in such case the vessel of war ought to abstain from all further visitation: Lastly, the twenty-sixth article imports, that in cases of contraband, the merchandises alone, enumerated

(a) Add the seventh article of the Convention entered into, in consequence of the treaty of Utrecht.

enumerated under this title, in the nineteenth article, can be lawful prize; the surplus of the cargo, as well as the vessel, ought to be restored. All the stipulations are so precise and clear, that they require not comment nor admit subterfuge. It is a fact, notwithstanding, that they have, all of them, been violated, with respect to the prizes carried into the ports of the British dominion, and that the judges have paid as little regard to them as the captors. The Court of London will not surely deny this assertion, or if she thinks fit to do it, it is to be presumed, that she will support her opinion by examples.

From a review of all the details, into which it has been necessary to enter, it appears, that the Court of London is so far from having any just ground of reproach against the King, that his Majesty may, on the contrary, with the greatest truth affirm, that the conduct of Great-Britain, with respect to him, has been a continued and premeditated violation of the law of nations, of the usages of the sea, of the regulations prescribed by treaties; that the least considerable of the facts, with which the
King

King may reproach the Court of London, would have led a Prince, less pacific than his Majesty, to have declared war against it; in a word, one of the principal objects, for which his Majesty has taken arms, is to put an end to the predominance, and to the habitual and systematic aggressions of Great-Britain, to restore to all nations the rights, which his all-grasping power has usurped; in fine, to procure to the world an entire tranquility, whose direction shall no longer depend on the caprice and avidity of the Court of London.

The last point, with regard to which it is expedient to re-establish the truth, is the origin, the progress, and the issue of the mediation of the King of Spain. The British Ministry set out, with advancing in a tone of assurance, which cannot but astonish, that it was the King who first solicited the mediation; and they represent the generous endeavours of Spain, first to prevent a war, and afterwards to stop its progress, as so many acts of perfidy and falsehood, concerted with his Majesty,

The King forbears to enter into a detail of the circumstances which preceded the mediation, of the steps taken by the Catholic King, to gain the concurrence of his Majesty, of the pains which he has taken, to render it effectual, of the causes which have forced this Prince to withdraw it, and of the events which have ensued : These points have been discussed with equal clearness and precision in the *Exposé des Motifs*, (Explanation of the Motives) published by order of the King, and in the observations made on them by the Court of Madrid.

The Catholic King affirms, that it was not the King who made the first overtures relative to the mediation, that they came to him from the British Ministry, through the channel of the Chevalier Estarano. The honor and the probity of this Monarch, are too well known for his affirmation, not to prevail against that ascribed in the Justificative Memorial (b) to the Court of London, and the King thinks, he may dispense with giving it the support of his testimony. It is to be observed at the same

(b) A publication by the Court of London.

same time, that if his Majesty endeavours to justify himself against the false assertion in question, it is not because he would blush at having made advances for the conservation of peace, but because he thinks it his duty to make known to the public, how far the British Ministry have regarded truth throughout the whole of their performance, and to shew the studied malignity, with which they have laboured to throw a ridicule on his Majesty, as well as on the Catholic King.

The King, who had no views of ambition, and with respect to whom the war just breaking out, was an affair not of choice but of necessity, accepted with the utmost readiness the tender made by the Catholic King, of his mediation; and he consented to enter into negotiation with the Court of London, on condition, that the United States of America should be included in the reconciliation, which was to be the result of it. It is evident, that this answer was as satisfactory, as the Court of London could naturally desire, unless she expected, that the King would debase and dishonor himself, without necessity——and in the eyes of his

his enemies themselves, by abandoning the Americans at the very moment, when he had just bound himself to them by solemn treaty.

The dispositions of the King were communicated to the British Ministry; but so far were they from concurring in them, or to speak more properly, from persevering in those which they had at first manifested, that they required, as a preface to all negociation, that the declaration made by the Marquis de Noailles should be revoked. Thus, the Court of London wanted, that the King should subscribe, as a preliminary, to a condition, which nothing but the most disastrous events of war could render admissible. The British Ministry had certainly conceived no such hope; they had held a conciliating and pacific language, because it behoved them to gain the time necessary for compleating their preparations for war against France, and they had accomplished this important object, when they made their declinatory answer to the Court of Madrid.

However

However it may have been, the proposition contained in this answer, disgusted the King of Spain, and this Prince would have thought it derogatory from his character, to advise the King to accede to it.

Thus the mediation came to nothing, through the proceedings of the Court of London herself; and it is evident, that such was her intention, since she lost not a moment in sending a fleet to sea, and in commencing hostilities, by attacking and making prize of his Majesty's vessels: But the issue of the engagement off Ushant, demonstrated to the Court of London, that her arms were not invincible, and led the British Ministry a-new into ideas of peace: Several of their emissaries sent into France, sounded indirectly the Ministers of the King, others addressed themselves directly to them, and all received for answer, that the dispositions of his Majesty had not changed; that he was ready to treat on the principles stated in the first overtures made by Spain.

There were even some, to whom the conditions, on which the King would make peace, were confidentially imparted; these conditions were:

First, The Independence of the United States.

Secondly, The infrancisement of the city of Dunkirk, from the inspection of the Court of London.

Thirdly, The freedom of the commerce of the Indies, and of Africa.

Fourthly, An equitable regulation of the fishery of Newfoundland.

The first of these conditions was a duty; the King could not have receded from it, without shamefully violating his faith.

The second was a point of convenience, and concerned the dignity of his Crown.

The third and fourth were dictated by justice, and presented not the least difficulty.

The

The British Ministers dropped the overtures they had made to the Ministers of the King; but they thought proper to continue them at the Court of Madrid—they invited a new the mediation of the King of Spain, and authorised his Catholic Majesty, so much the more, to believe their intentions sincere, because they had declared, that they aimed at nothing further than to save the honor of the British Crown, without doing the least injury to that of France.

The Catholic King communicated to the King the new overtures of the Court of London, and renewed his exhortations to peace. His Majesty not only gave an immediate and satisfactory answer, but communicated also to the Court of Madrid, the conditions on which he consented to treat with England: These conditions were only a repetition of these just mentioned.

The King of Spain, assured in the most positive and irrevocable terms, of the intentions of the King, invited the Court of London, to confide to him, on her part, the conditions on which she thought

thought she could make peace ; but this Court, habituated to an insidious policy, which her secret views seemed no doubt, to make necessary to her, answered verbally in such a manner, as strengthened the hopes of the Catholic King, at the same time, that her official answer destroyed them, by renewing her first propositions. Two months almost were spent by the British Ministry, in digesting this double answer, or rather, in persuading themselves, that the contradiction it contained, would escape the cabinet of Madrid. A conduct, so little frank, and intentions so little satisfactory, did not discourage the Spanish Court, however disrespectful they were to the Catholic King.

This Prince, in the expectation of a favorable resolution, on the part of England, had proposed eventually to the King, to agree to a truce for a long period ; his Majesty assented to this new plan, on condition, that the Americans should be comprehended in it, and treated, during its continuance, as Independent in fact, and to facilitate, as much as possible, the success of the measures, which the Catholic King proposed to take at London, his Majesty

jesty consented to a direct negotiation between the King of England and the United States, unless this Prince should like better to treat through the intervention of the Court of Madrid.

It was not possible to have given an answer more conformable to the views of the King of Spain, and this Prince thought them so analogous to the desire which the Court of London had manifested to him, of peace, that he did not hesitate to communicate them to her.

The British Ministry delayed, from the month of January, of the last year, till the sixth of March, to give an answer. This answer, equivocal as it was, led the King of Spain to believe, that the King of England was sincerely disposed to a reconciliation, as well with France as with the Americans, and this presumption determined his Catholic Majesty to propose a new plan, as his *ultimatum*. According to this plan, an unlimited truce was to have been agreed on, both in Europe and America; during its continuance, the United States were to be considered as Independent in fact; the truce was

not to be broken, without a previous notice of one year, each of the two parties were to retain possession of whatever they should hold, at the moment of the ratification of the truce; lastly, the King of England, was to be at liberty to treat either of a truce or a peace, directly with the Americans.

These propositions, so precisely analogous, to the overtures of the Court of London itself, were communicated to it, without the knowledge of the King, because the Catholic King was unwilling to expose himself to the delays, which might be occasioned by the observations of the King in the *statu quo*, to which, in fact, he never could of himself have subscribed, because it was contrary to his engagements with the Congress, which, from being eventual as they stood at the conclusion of the treaties, had become efficient and definitive, from the date of hostilities; and the Catholic King himself avows, that he had made his propositions in England, with no other view, than to satisfy his extreme desire of contenting the Court of London.

But

But the King of England affected to reject with disdain the propositions of the Court of Madrid, as contrary to his honor, at the same time that he was making clandestine attempts, to gain the assent of the Americans to a part of them, without the knowledge of France and Spain. This offensive proceeding extinguished in the Catholic King all hope of a speedy reconciliation, and this Prince saw himself forced, at length, to take arms, as well to avenge his personal affronts, as to fulfil the obligations, by which he was bound to his Majesty.

Such is the faithful history of the mediation. His Majesty might dispence with making any reply to the reflections, which the British Ministry have made, on the several propositions of the Court of Madrid, not only because he did not suggest them, but also because he had never subscribed to those concerning the *statu quo*, being unauthorized so to do, by the United States. His Majesty nevertheless thinks, he may indulge himself in a few remarks on this subject.

It

It is certain, that at the period, when the mediation was set on foot, England had not yet received the checks requisite to force her into a peace, but this power had sustained for four years a war against her antient Colonies, no less fruitless than expensive, and circumstances had obliged the King, to make a common cause with them; on another side, the Court of London knew the engagements, which united those of Versailles and Madrid; she was perfectly informed of the considerable armaments, that were going on in the ports of Spain, the Catholic King had clearly pointed out their destination in several overtures, and the British Ministry themselves have acknowledged, that they were not unacquainted with it. In this state of things, what part ought prudence to have naturally suggested to the Court of London, that of persisting in a murderous and destructive war? Of embracing the path, that was opened for her to peace? Yielding to the necessity of circumstances, which she herself had brought about?

The King of Spain might, without insulting England, without exciting her indignation, and
even

even without wounding her delicacy, suppose that she would take counsel, from her situation, rather than from her pride; that instead of attaching herself to metaphysical distinctions, she would have lent a ready ear to an expedient accommodation: The King of Spain not only hoped, that this would be the case, but he wished it with so much the more fidelity, as he saw with concern, that the moment was arrived, when his engagements, joined to the refusal of justice, with which he had to charge the Court of London, would oblige him finally to take part in the war.

Under these circumstances, could Spain be blameable for having supposed, that the British cabinet would admit of an indefinite truce, and consent to treat with the Americans as independent in fact? Surely, the Catholic King might propose this latter condition to the Court of London, after the capitulation of General Burgoyne, after the sending of Commissioners of peace; and his Catholic Majesty could never have imagined, that the British Court would regard, as an injury, conditions far less extensive,

extensive, than those which Holland required and obtained in 1610, from Philip III, under the auspices of Great-Britain.

At the same time that the British Ministry have laboured to represent the good offices of the King of Spain, as the effect of dissimulation, of fraud, and of criminal concert—they have endeavoured to turn into ridicule the consent given by the King, to a direct negociation between England and the United States ; but two words will suffice to annihilate the swelling phrases, by the assistance of which, the British Ministry have endeavoured to render supportable their reflections, with regard to this.

The King had concluded with the Americans a treaty of alliance, which the British themselves had put in force ; one of the articles of this treaty imports, that in case of war, neither of the two contracting parties, should make either peace or truce, without the other ; this stipulation appeared to the King to tie up his hands, and to restrain him from acceding to the first overtures, which had been held

held out in the mediation : His Majesty took upon him, to remove this obstacle, and he consented the more readily to a separate negotiation, between Great-Britain and the Americans, because such an expedient would save the Court of London the mortification of treating with France, concerning the fate of her antient subjects. It is this conciliating step, which the British Ministry endeavour to ridicule, by saying, that his Majesty has pretended to grant to the King of England, as a favor, the liberty of treating directly with his rebel subjects.

The Court of London having then peremptorily rejected the mediation of the King of Spain, after having deceived him for a moment, by an appearance of the most pacific intentions and overtures, this Prince was forced to take part in the war. Such a determination ought not to have surprised the British Ministry, because the Catholic King had clearly indicated it at several times : They were, nevertheless, struck with the utmost astonishment, because they had flattered themselves, that, by their artful language, the eulogiums, they had incessantly

cessantly bestowed on the justice of their Sovereign, on his sincere friendship for his Catholic Majesty, by the promises constantly renewed, to do justice to the Spaniards; by their pains, to render France suspected: they have flattered themselves, I say, that by these artifices they should succeed, in detaching the Court of Madrid from her alliance with the King, in effacing from the mind of the King of Spain the injuries offered to his dignity, and in determining this Prince, to remain at least, a quiet spectator of the terrible blows, which the King of England flattered himself, he should give to the French Monarchy.

These details will be sufficient, without doubt, to shew the public, with what hardiness the *Justificative Memorial* imposes on them, in the facts relating to the mediation, and to convince every impartial reader, that neither the King, nor the King of Spain, have, on this important occasion, falsified the principles of honor and probity, which they profess, and that these two Sovereigns have, on the contrary, given the most evident proofs of their love of peace; that it is the Court of London

don, who has challenged the Catholic King ; that it is this Court, that has put arms into his hands, as she had before put them into the hands of his Majesty ; in a word, that it is she, that has rendered necessary the efforts, which the two Monarchs are making, to put an end to the abuse, which she has too long made of her power.

F I N I S.



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